Planning Committee: 15 September 2015 **Item Number:** 5

Application No: W 15 / 1361

Registration Date: 25/08/15
Town/Parish Council: Leamington Spa **Expiry Date:** 24/11/15
Case Officer: Rob Young
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Sydenham Industrial Estate, Sydenham Drive & St Mary`s Road, Leamington Spa, CV31 1PH

Outline planning application for the demolition of existing buildings and the erection of up to 88 no. affordable and up to 55 no. low cost dwellings (Class C3) to include siting and vehicular access from St Mary's Road and Ramsey Road, with all other matters reserved for subsequent approval including landscaping, car parking, and all other ancillary and enabling works. FOR Orbit Group Ltd & CHS Developments Ltd

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This application is being presented to Committee because a similar scheme for residential development on this site was refused by Committee in November 2014 (Ref. W14/1132). This report has been brought before Committee at the earliest opportunity because of an impending public inquiry in relation to that previous refusal. It is important for a decision on the current application to be made before the deadline date for proofs of evidence for the inquiry to ensure that the Council does not incur unnecessary expense.

RECOMMENDATION

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

DETAILS OF THE DEVELOPMENT

This is an outline application for the redevelopment of the site for residential purposes to provide a total of 143 dwellings. This would consist of up to 88 affordable dwellings and up to 55 low cost market dwellings. The affordable dwellings would comprise 49 affordable rented units and 39 shared ownership units.

Whilst this is an outline application, details of access and layout have been provided. Details of appearance, landscaping and scale are reserved matters and so are not provided at this stage.

The proposed development would comprise predominantly terraced and semi-detached houses, with a small proportion of bungalows and flats. The application indicates a mix of 1, 2, 3 and 4 bedroom houses, flats and bungalows. The detailed housing mix would be confirmed at reserved matters stage. The Design and Access Statement submitted with the application indicates that the development will be predominantly two storey, with a small number of bungalows and three storey flats.

The proposed dwellings would be accessed off St. Mary's Road and Ramsey Road. The proposed layout includes an area of public open space alongside the canal.

The key differences between this revised scheme and the scheme that was refused planning permission in November 2014 are as follows:

- the acoustic fence along the northern boundary of Bellagio Stone has been increased in height from 2m to 3m;
- the applicants are willing to consider the use of mechanical ventilation for the plots fronting Ramsey Road, if found to be appropriate (this would be a significant enhancement to the noise mitigation measures currently proposed (acoustic trickle vents));
- an additional noise statement has been provided to respond to issues raised by Bellagio Stone;
- a survey is being undertaken to review the quantum of traffic on Ramsey Road; and
- the revised application is an outline application whereas the refused scheme was a full detailed application.

THE SITE AND ITS LOCATION

The application relates to land forming the north-eastern corner of the Sydenham Industrial Estate. The site comprises an amalgamation of various different parcels of land and buildings that are now vacant. When occupied the buildings were used for a variety of purposes included light industrial, general industrial, warehousing and car sales and repairs. The existing buildings on the site are industrial buildings that are utilitarian in appearance.

The Grand Union Canal runs along the northern boundary of the site. There are houses on the opposite side of the canal. The land on the opposite side of the canal is situated within the Leamington Spa Conservation Area. Sydenham Drive runs along the eastern boundary of the site. There are houses, flats and the Stanley Court local shopping centre on the opposite side of Sydenham Drive. There is a wide grass verge separating the site from Sydenham Drive. St. Mary's Road runs along part of the southern boundary of the site. There are warehouse premises on the opposite side of St. Mary's Road.

The western boundary of the site has a rather more complex alignment. This boundary runs partly down Ramsey Road, but excludes the Magnet premises on the eastern side of the road. The boundary runs around the sides and rear of the Magnet site and then along Ramsey Road in front of Magnet to include some of the industrial buildings on the opposite side of the road. This part of the boundary runs along the northern side of the Bellagio Stone unit and along the eastern side of the former Elisabeth the Chef premises (now vacant).

The Bellagio Stone is used for general industrial purposes (Use Class B2). Magnet is a trade warehouse (Use Class B8). The Sydenham Industrial Estate continues on the opposite side of St. Mary's Road.

There are a number of trees and shrubs along the boundary with the canal. There are also a number of trees in front of the site on St. Mary's Road and Sydenham Drive (within the highway verge).

PLANNING HISTORY

In November 2014 Planning Committee refused planning permission contrary to officer's recommendation for a residential development comprising 143 dwellings (Ref. W14/1132). The reason for refusal was as follows:

> *"In the opinion of the Local Planning Authority, the proposed development would result in a detrimental impact on the amenities of the future occupants of the new residential units by virtue of their positioning close to commercial premises and the associated use of Ramsey Road and would impact upon the use of those commercial premises for employment purposes to their full extent contrary to the National Planning Policy Framework and the following Development Plan policies:*
>
> *The Warwick District Local Plan 1996 - 2011*
>
> - *Policy DP1: Layout and Design;*
> - *Policy DP2: Amenity;*
> - *Policy DP6: Access; and*
> - *Policy SC2: Protecting Employment Land and Buildings*
>
> *The Emerging Warwick District Local Plan 2011 - 2029*
>
> - *Policy BE1: Layout and Design;*
> - *Policy BE3: Amenity;*
> - *Policy TR1: Access and Choice; and*
> - *Policy EC3: Protecting Employment Land and Buildings."*

An appeal against the refusal has been submitted and that will be the subject of a public inquiry scheduled for November 2015.

In August 2015 outline planning permission was granted for the erection of 102 dwellings on part of the current application site (Ref. W15/0634). This excluded those parts of the current site that front onto Ramsey Road.

Prior to the above applications there had been a significant number of previous planning applications relating to the various industrial and car sales premises across the application site. However, none of these are relevant to the consideration of the current proposals.

RELEVANT POLICIES

- National Planning Policy Framework

- 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)

- DP5 - Density (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)
- DP11 - Drainage (Warwick District Local Plan 1996 - 2011)
- DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)
- DP14 - Crime Prevention (Warwick District Local Plan 1996 - 2011)
- SC1 - Securing a Greater Choice of Housing (Warwick District Local Plan 1996 - 2011)
- SC2 - Protecting Employment Land and Buildings (Warwick District Local Plan 1996 - 2011)
- SC11 - Affordable Housing (Warwick District Local Plan 1996 - 2011)
- SC13 - Open Space and Recreation Improvements (Warwick District Local Plan 1996 - 2011)
- SC14 - Community Facilities (Warwick District Local Plan 1996 - 2011)
- UAP1 - Directing New Housing (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)

- Warwick District Local Plan 2011-2029 Publication Draft - published April 2014. Relevant policies: DS2, DS3, DS5, DS6, DS7, DS8, DS10, DS11, DS17, EC3, HO, H1, H2, H4, SC0, BE1, BE3, TR1, TR2, TR4, HS1, HS4, HS6, HS7, CC1, CC3, FW2, FW3, FW4, HE2, NE1, NE2, NE3, NE5, NE7, DM1 & DM2.

- Residential Design Guide (Supplementary Planning Guidance - April 2008)
- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Distance Separation (Supplementary Planning Guidance)
- The 45 Degree Guideline (Supplementary Planning Guidance)
- Vehicle Parking Standards (Supplementary Planning Document)
- Open Space (Supplementary Planning Document - June 2009)
- Affordable Housing (Supplementary Planning Document - January 2008)
- Development Management Policy Guidance: Achieving a Mix of Market Housing on new Development Sites (Agreed by Executive - 19th June 2013)
- Garden Towns, Villages and Suburbs - A prospectus for Warwick District Council (Consultation document - May 2012)

SUMMARY OF REPRESENTATIONS

Town Council: Comments awaited.

Public response: No comments received at the time of writing this report.

Natural England: No comment.

Inland Waterways Association: No objection.

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

WCC Archaeology: No objection.
WCC Ecology: The site is adjacent to Ecosite 22/36 and the Grand Union Canal potential Local Wildlife Site. Recommend that the development is set back at least 8m from the canal. Other than that, the findings of the applicant's Ecological Surveys report are accepted. Various conditions and informative notes are recommended in relation to protected species and ecological enhancements.

WDC Housing Strategy: Fully support this substantial proposal for affordable housing from one of the Council's preferred Registered Provider partners.

ASSESSMENT

There was one reason for refusal of the previous application for residential development on this site (Ref. W14/1132) and therefore this report will focus on the issues of concern contained within that refusal reason. In relation to the other issues relevant to the consideration of this application there has been no material change in circumstances since the previous application was considered by Planning Committee in November 2014. Therefore the assessment in relation to those issues remains the same as set out in the November 2014 Committee Report which is attached as an Appendix to the current report.

Consequently the main issue to be considered in relation to this report is whether the proposals would create a satisfactory living environment for future occupants having regard to the presence of nearby commercial premises.

In assessing this issue, it is perhaps important to start with a reminder that the Council's Environmental Health and Planning Officers were satisfied that the scheme as considered in November 2014 was acceptable and would provide a satisfactory living environment for future occupants. Planning Committee took a different view, as they are entitled to do. However, the applicant has now submitted further noise evidence and enhanced noise mitigation measures which are considered to address the Planning Committee's concerns.

Firstly, the acoustic fence along the northern boundary of Bellagio Stone has been increased in height to provide enhanced acoustic mitigation for the proposed dwellings to the north of Bellagio Stone. From the comments made at previous Planning Committee meetings, it was evident that Members were particularly concerned about the noise environment for the proposed dwellings in this area. Consequently it is considered that this amendment directly addresses those concerns.

Secondly, the use of mechanical ventilation for the plots fronting Ramsey Road would represent a significant enhancement to the noise mitigation previously proposed for those properties. Acoustic trickle vents had previously been proposed.

Before considering these first two points, it is important to remember that the Council's Environmental Health Officer had accepted that the previous mitigation measures were adequate. However, the measures previously proposed were clearly not sufficient to address the concerns of the previous Planning Committee. The amendments to include a taller acoustic fence to protect some

plots and mechanical ventilation to protect others now represents a significant enhancement to the acoustic mitigation measures. These enhanced measures further improve the noise environment for the proposed dwellings and therefore this should address the concerns of the previous Planning Committee.

The applicant has also submitted a further noise statement which responds to the criticisms made by Bellagio Stone over the course of the 2 previous applications. This provides further evidence to demonstrate that the layout of the development together with the proposed noise mitigation measures will secure a satisfactory living environment for future occupants. The noise evidence submitted by the applicant is now considered to be stronger and deals adequately with all of the issues that have been raised. This has been accepted by the Council's Environmental Health Officer.

The previous Planning Committee also raised concerns about commercial vehicle movements along Ramsey Road. In response, the applicant is undertaking a survey to review the quantum of traffic on Ramsey Road. The results will be included in the addendum report to Committee. It is expected that this will demonstrate that commercial vehicle movements along this road are infrequent at present and probably a lot less frequent than Planning Committee may have feared. There is unlikely to be any material increase in commercial vehicle movements above this level in the future because, other then Bellagio Stone and Magnet, the other commercial premises are within the application site and so are to be redeveloped for residential purposes.

Another change in circumstances since the previous application was considered in November 2014 is that the need for housing is now more acute. Whilst the Council were unable to demonstrate a 5 year supply of housing land in November 2014, it was the Council's position at that time that the sites allocated in the Draft Local Plan would amount to a 5 year supply when approved. However, since then the initial hearings of the Local Plan Examination have been held and the Inspector has written to the Council advising that he considers the housing allocations in the Draft Local Plan to be insufficient. The current application site is included as an allocation in the Draft Local Plan and therefore if planning permission was not to be granted for residential development on this site the Council would have to find further land to allocate elsewhere (probably greenfield land).

SUMMARY / CONCLUSION

Drawing the above matters together, it is apparent that the balance in the assessment of this application has moved further in favour of a grant of planning permission since the previous application was considered by Planning Committee in November 2014. Officers were of the view that the previous scheme was acceptable and recommended approval. In view of the further evidence and enhanced noise mitigation measures and the situation in which the Council currently finds itself in relation to housing land supply, it is considered that there is now a stronger case in favour of the proposals, sufficient to justify Planning Committee taking a different decision this time around. Therefore it is recommended that planning permission is granted.

CONDITIONS

1 This permission is granted under the provisions of Article 4(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2010 as amended, on an outline application and the further approval of the District Planning Authority shall be required to the undermentioned matters hereby reserved before any development is commenced:-

(a) scale
(b) appearance
(c) landscaping

REASON : To comply with Section 92 of the Town and Country Planning Act 1990 as amended.

2 Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission. **REASON:** To comply with Section 92 of the Town and Country Planning Act 1990 (as amended).

3 The development to which this permission relates shall begin within three years of the date of this permission or within two years of the final approval of the reserved matters, whichever is the later. **REASON:** To comply with Section 92 of the Town and Country Planning Act 1990 (as amended).

4 The development hereby permitted shall be carried out strictly in accordance with the details shown on the application form, site location plan and approved drawing 2894-29G and specification contained therein, submitted on 25 August 2015. **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.

5 No development shall commence until details of surface and foul water drainage have been submitted to and approved in writing by the local planning authority. The development shall be carried out in strict accordance with such approved details. **REASON:** To ensure that adequate drainage facilities are available and to minimise flood risk, in accordance with the National Planning Policy Framework and Policy DP11 of the Warwick District Local Plan 1996-2011.

6 No development or other operations (including demolition, site clearance or other preparatory works) shall be commenced unless and until adequate steps, which shall have been previously approved in writing by the local planning authority, have been taken to safeguard against damage or injury during construction works (in accordance with Clause 7 of British Standard BS5837 – 2012 Trees in Relation to Design, Demolition & Construction) to all tree(s) on the site, or those tree(s) whose root structure may extend within the site. In particular no

excavations, site works, trenches or channels shall be cut or pipes or services laid, no fires shall be lit within 10 metres of the nearest point of the canopy of any retained tree(s); no equipment, machinery or structure shall be attached to or supported by any retained tree(s); no mixing of cement or use of other contaminating materials or substances shall take place within, or close enough to, a root protection area that seepage or displacement could cause them to enter a root protection area, or any other works be carried out in such a way as to cause damage or injury to the tree(s) by interference with their root structure and no soil or waste shall be deposited on the land in such a position as to be likely to cause damage or injury to the tree(s). **REASON:** To protect those trees which are of significant amenity value to the area and which would provide an enhanced standard of appearance to the development in accordance with Policy DP3 of the Warwick District Local Plan 1996-2011.

7 The development shall not begin until a scheme detailing the affordable housing provisions has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:

(a) the tenure split;
(b) the arrangements for the management of the affordable housing;
(c) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
(d) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

REASON: To meet the requirements of Policy SC11 of the Warwick District Local Plan 1996-2011.

8 The development hereby permitted shall not be commenced until a scheme for the provision of adequate water supplies and fire hydrants, necessary for firefighting purposes at the site, has been submitted to and approved in writing by the District Planning Authority. The development shall not then be occupied until the scheme has been implemented to the satisfaction of the District Planning Authority. **REASON**: In the interests of fire safety.

9 No development shall commence until a detailed lighting scheme for the site has been submitted to and agreed in writing by the local planning authority. In discharging this condition the local planning authority expects lighting to be restricted around the boundary edges, particularly along hedgerows, where protected species are likely to be found, and to be kept to a minimum at night across the whole site in order to minimise impact on emerging and foraging bats and other nocturnal wildlife. This could be achieved in the following ways:

(a) low energy LED lighting should be used in preference to high pressure sodium or mercury lamps;
(b) the brightness of lights should be as low as legally possible;
(c) lighting should be timed to provide some dark periods; and
(d) connections to areas important for foraging should contain unlit stretches.

No lighting shall be installed other than in strict accordance with the scheme approved under this condition. The lighting shall be maintained and operated in strict accordance with the approved scheme at all times thereafter.

REASON: To ensure that any lighting is designed so as not to detrimentally affect the amenities of the occupiers of nearby properties and to ensure that appropriate measures are taken in relation to protected species in accordance with Policies DP2, DP3, DP9 and DAP3 of the Warwick District Local Plan 1996-2011.

10 Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the District Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:

1) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the District Planning Authority. The scheme shall be implemented strictly as approved.

REASON: To ensure the protection of controlled waters and to prevent pollution in accordance with Policy DP9 in the Warwick District Local Plan 1996-2011.

11 No development shall commence until a Low Emission Strategy has been submitted to and approved in writing by the local planning authority. The Low Emission Strategy shall thereafter be implemented in strict accordance with the approved details. **REASON**: To ensure mitigation against air quality impacts associated with the proposed development, in accordance with Policy DP9 of the Warwick District Local Plan and the aims and objectives of national guidance within the NPPF 2012.

12 The development hereby permitted shall be undertaken in the presence of a qualified bat worker appointed by the applicant to supervise all destructive works to the roof of the office building to the rear of Building 7 (as annotated in the Ecological Surveys report produced by Crestwood Environmental Ltd and dated 18 December 2013). All roofing material on this building is to be removed carefully by hand. Appropriate precautions must be taken in case bats are found, such as the erection of at least one bat box on a suitable tree or building. Should evidence of bats be found during this operation, then work must cease immediately while Natural England and WCC Ecological Services are consulted for further advice. Any subsequent recommendations or remedial works shall be implemented within the timescales agreed between the bat worker and the Warwickshire County Council Ecology / Natural England. Notwithstanding any requirement for remedial work or otherwise, the qualified bat worker's report shall be submitted to the local planning authority within 1 month following completion of the supervised works to summarise the findings. **REASON:** To safeguard the presence and population of a protected species in line with UK and European Law, the National Planning Policy Framework and Policy DAP3 of the Warwick District Local Plan 1996-2011.

13 No development shall commence until a scheme detailing arrangements to protect residents of the development from excessive traffic and industrial noise entering habitable rooms and the provision of quiet garden areas shielded from road and industrial noise has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details and shall be retained at all times thereafter. **REASON:** To protect residents of the development from the adverse effects of traffic and industrial noise from outside the development in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011.

14 No development shall take place until details of the design; appearance and exact location of the proposed bollards/barriers to prevent vehicles entering the canal have first been submitted to and agreed in writing by the local planning authority. This shall include details of the timing of installation of the bollards/barriers. The bollards/barriers shall be installed in strict accordance with the approved details and timescales

and shall be retained at all times thereafter. **REASON:** To ensure the provision of suitably designed barriers in the interests of safety and to protect users on the canal, the integrity of the canal infrastructure and to prevent a detrimental impact on the appearance of the canal, in accordance with Policy DP1 of Warwick District Local Plan.

15 The development shall not begin until a scheme detailing the laying out and future management of the public open space within the site has been submitted to and approved in writing by the local planning authority. The public open space shall be laid out and maintained in accordance with the approved scheme. The scheme shall include:

(a) arrangements for the future management and maintenance of the public open space; and
(b) details of how public access will be provided to the public open space in perpetuity.

REASON: To ensure the necessary infrastructure and facilities are provided in accordance with Policy SC13 of the Warwick District Plan 1996 – 2011.

16 The development (including any works of demolition) shall proceed only in strict accordance with a construction method statement which shall have been submitted to and approved in writing by the local planning authority. The approved statement shall be strictly adhered to throughout the construction period and shall provide for: the anticipated movements of vehicles; the parking of vehicles of site operatives and visitors; the loading and unloading of plant and materials; the storage of plant and materials used in constructing the development; wheel washing facilities and other measures to ensure that any vehicle, plant or equipment leaving the application site does not carry mud or deposit other materials onto the public highway; measures to control the emission of dust and dirt during construction; measures to limit noise and disturbance; a construction phasing plan; and a HGV routing plan. **REASON:** In the interests of highway safety and the amenities of the occupiers of nearby properties, the free flow of traffic and the visual amenities of the locality in accordance with Policies DP2, DP6, DP8 & DP9 of the Warwick District Local Plan 1996-2011.

17 No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the District Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. **REASON**: To ensure preferential pathways are not created to mobilise contaminants into the underlying groundwater, in accordance with the Policy DP9 in the Warwick District Local Plan 1996-2011.

18 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site

where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details. **REASON:** To protect Controlled Waters and linked receptors, in accordance with Policy DP9 of the Warwick District Local Plan.

19 The development shall be carried out in accordance with the Flood Risk Assessment ref. C6247-01 Rev A by Couch Consulting Engineers that was submitted on 25 August 2015. **REASON:** To minimise the risk of flooding on site and elsewhere, in accordance with the National Planning Policy Framework.

20 The development hereby permitted shall only be undertaken in strict accordance with details of both hard and soft landscaping works which shall 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 walls, railings and gates to be erected, specifying the colour of the railings and gates; footpaths; and hard surfacing. 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; and all planting shall be carried out in accordance with the approved details in the first planting and seeding seasons following the first occupation. Any tree(s) or shrub(s) which within a period of five years from the completion of the development dies, is removed or becomes in the opinion of the local planning authority seriously damaged, defective or diseased shall be replaced in the next planting season with another of similar size and species, unless the local planning authority gives written consent to any variation. All hedging, tree(s) and shrub(s) shall be planted in accordance with British Standard BS4043 – Transplanting Root-balled Trees and BS4428 – Code of Practice for General Landscape Operations. **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.

21 The existing tree(s) and shrub(s) indicated on the approved plans to be retained shall not be cut down, grubbed out, topped, lopped or uprooted without the written consent of the local planning authority. Any tree(s) or shrub(s) removed without such consent or dying, or being severely damaged or diseased or becomes, in the opinion of the local planning authority, seriously damaged or defective, within five years from the substantial completion of development shall be replaced, as soon as practicable with tree(s) and shrub(s) of such size and species details of which must be submitted to and approved by the local planning authority. All tree(s) and shrub(s) shall be planted in accordance with British Standard BS4043 – Transplanting Root-balled Trees and BS4428 – Code of Practice for General Landscape Operations (excluding hard surfaces). **REASON:** To protect those trees and shrubs which are of significant amenity value and which ensure a satisfactory standard of appearance of the development in the interests

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

22 The development shall be carried out only in full accordance with sample details of all facing and roofing materials which shall have been submitted to and approved in writing by the local planning authority. **REASON:** To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the locality in accordance with Policy DP1 of the Warwick District Local Plan 1996-2011.

23 The development hereby permitted shall be built to Code for Sustainable Homes Level 3. **REASON:** Since the application has been approved without 10% renewable energy production on the basis that the development is built to Code for Sustainable Homes Level 3, in accordance with the requirements of Local Plan Policy DP13.

24 None of the flats hereby permitted shall be occupied until the bin store for that flat has been constructed in strict accordance with the plans approved under any reserved matters submission. The bin stores shall be retained and kept available for the storage of refuse and recycling at all times thereafter. **REASON** : To protect the amenities of occupiers of the site and the character and appearance of the locality, in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.

25 None of the flats hereby permitted shall be occupied until the cycle parking provision for that flat has been constructed in strict accordance with the plans to be approved under any reserved matters submission. The cycle stores shall thereafter shall be kept free of obstruction and be available at all times for the parking of cycles associated with the development. **REASON** : To ensure that there are adequate cycle parking facilities to serve the development, in accordance with the requirements of Policy DP8 of the Warwick District Local Plan 1996-2011.

26 The dwellings hereby permitted shall be designed and constructed to ensure that internal noise levels do not exceed the following levels between 0700 hours and 2300 hours:

- 35 dB LAeq,16hour within living rooms;
- 40 dB LAeq,16hour within dining rooms; and
- 35 dB LAeq,16hour within bedrooms.

The dwellings hereby permitted shall be designed and constructed to ensure that internal noise levels do not exceed the following levels between 2300 hours and 0700 hours:

- 30dB LAeq,8hour within bedrooms, with the maximum instantaneous noise level not exceeding 45dB LAmax,fast (Night-time LAmax as prescribed by WHO Guidelines for Community Noise, 1999).

The external noise level in all private gardens of the dwellings hereby permitted shall not exceed 50dB LAeq,t between 0700 hours and 2300 hours.

REASON: To provide a satisfactory living environment for future occupants of the proposed dwellings, in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011.

27 Best practicable means shall be employed at all times to control noise and dust on the site. Work which is likely to give rise to noise nuisance shall not take place before 0730 hours or after 1700 hours on Mondays to Fridays or before 0730 hours or after 1300 hours on Saturdays. No construction work shall take place on Sundays or Bank Holidays. Delivery vehicles shall not be permitted to arrive on site before 0800 hours or after 1630 hours on Mondays to Fridays or before 0800 hours or after 1300 hours on Saturdays. No deliveries shall be permitted to arrive on site on Sundays or Bank Holidays. **REASON:** To protect the living conditions of nearby residents, in accordance with Policies DP2 and DP9 of the Warwick District Local Plan.

28 The dwellings on plots 70-86 shall not be occupied before 1 November 2017. **REASON:** To allow Bellagio Stone time to consider whether they wish to relocate from their current premises.

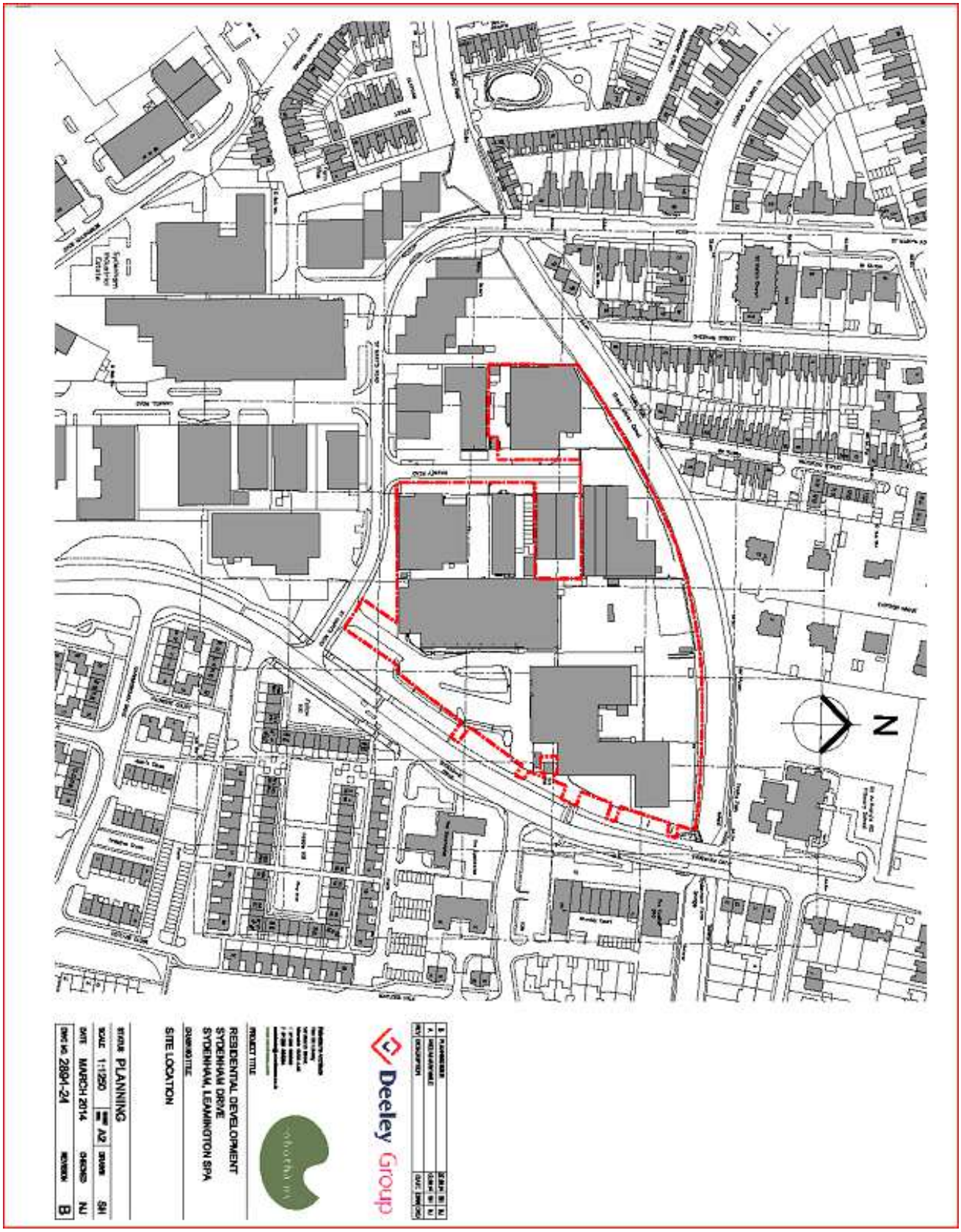
29 None of the dwellings hereby permitted shall be occupied until the car parking and manoeuvring areas indicated on the approved drawings for that dwelling have been provided and thereafter those areas shall be kept marked out and available for such use at all times. **REASON:** To ensure that a satisfactory provision of off-street car parking and turning facilities are 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.

30 Prior to the occupation of the dwellings on plots 23, 34, 66, 69 & 97, the first floor windows in the side elevations shall be permanently glazed with obscured glass to a degree sufficient to conceal or hide the features of all physical objects from view. The obscured glazed windows shall be retained and maintained in that condition at all times. **REASON** : To protect the privacy of users and occupiers of nearby properties and the privacy of future users and occupiers of the development hereby permitted and to satisfy the requirements of Policy DP2 of the Warwick District Local Plan 1996-2011.

31 No heavy goods vehicles associated with the construction of the dwellings hereby permitted shall be permitted to enter or leave the site between 0700 hours and 0930 hours or between 1500 hours and 1700 hours on Mondays to Fridays. **REASON:** In the interests of highway safety, in accordance with Policy DP6 of the Warwick District Local Plan.

32 None of the dwellings hereby permitted shall be occupied until a Green

Travel Plan to promote sustainable travel to and from the site has been submitted to and approved in writing by the local planning authority. The approved Green Travel Plan shall thereafter be implemented in full and shall not be withdrawn or amended in any way without the prior written approval of the local planning authority. **REASON:** In the interest of encouraging the use of alternative modes of transport with the aim of creating a more sustainable development in accordance with Policies SC12 & SC4 of the Warwick District Local Plan 1996-2011.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Deeley Group
RESIDENTIAL DEVELOPMENT
SYDENHAM DRIVE
SYDENHAM, LEAMINGTON SPA
SITE LOCATION
PLANNING
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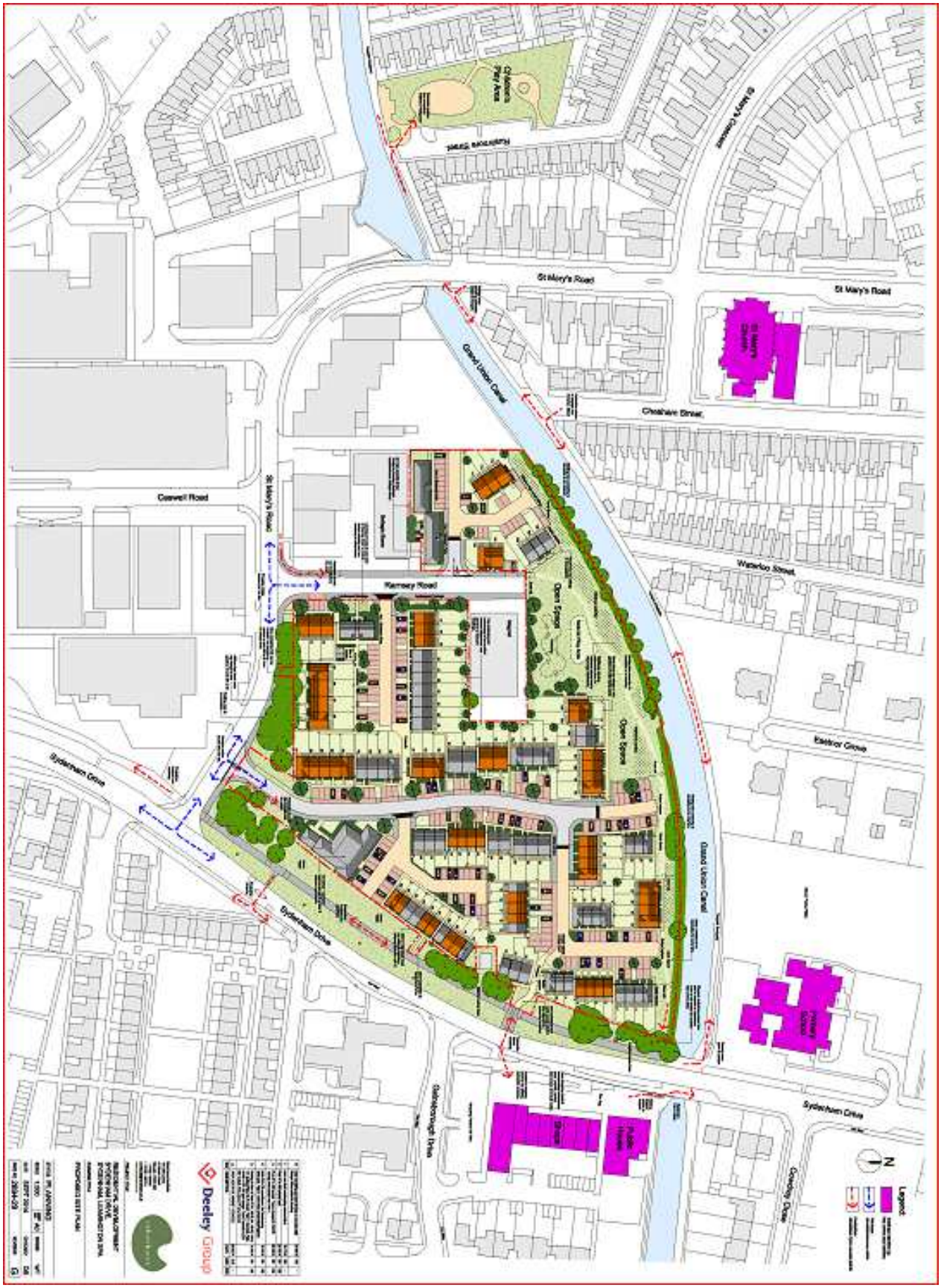
St Mary's Road
Grand Union Canal
Cheshire Street
Waterloo Street
Rainsey Road
Open Space
Sydenham Drive
Eastnor Grove
Caswell Road
Deeley Group

APPENDIX - COMMITTEE REPORT FOR THE PREVIOUS APPLICATION

Planning Committee: *11 November 2014* ***Item Number:***

Application No: *W 14 / 1132*

Registration Date: *25/07/14*
Town/Parish Council: *Leamington Spa* ***Expiry Date:*** *01/12/14*
Case Officer: *Rob Young*
01926 456535 rob.young@warwickdc.gov.uk

Sydenham Industrial Estate, Sydenham Drive and St Mary's Road, Leamington Spa, CV31 1PG

Full planning application for the erection of 88 no. affordable and 55 no. low cost market dwellings (Use Class C3) served by vehicular access from St Mary's Road and Ramsey Road; associated car parking; landscaping; open space; and other ancillary and enabling works (resubmission of W/14/0446) FOR Orbit Group Ltd & CHS Developments Ltd

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

RECOMMENDATION

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

DETAILS OF THE DEVELOPMENT

The application proposes the redevelopment of the site for residential purposes to provide a total of 143 dwellings. This would consist of 88 affordable dwellings and 55 low cost market dwellings. The affordable dwellings would comprise 49 affordable rented units and 39 shared ownership units.

The development would include a predominantly two storey, terraced and semi-detached houses, with a small proportion of bungalows and two and three storey flats. The affordable units would include a mix of 1, 2, 3 and 4 bedroom houses, flats and bungalows. The low cost market units would comprise a mix of 1, 2 and 3 bedroom houses and flats.

The proposed dwellings would be accessed off St. Mary's Road and Ramsey Road. The proposed layout includes an area of public open space alongside the canal.

The following amendments have been made to the application:

- *layout amended so that the dwellings generally front onto surrounding streets, the canal and streets within the development;*

- *single aspect flats on the northern side of Bellagio Stone merged into a single building to create a continuous noise barrier;*
- *dwellings opposite Bellagio Stone redesigned to ensure that the main "living" rooms (e.g. lounges and bedrooms) all have their main windows in the rear elevation, i.e. facing away from Bellagio Stone;*
- *increase in the size of the proposed public open space and a subsequent reduction in the number of dwellings from 147 to 143 together with a change to the mix of affordable and market units;*
- *confirmation that all of the existing trees along the boundary with the canal will be retained;*
- *increase in length of rear gardens for the houses backing on to the Magnet premises (an adjoining warehouse unit);*
- *increase in the size of the bin store for the flats;*
- *affordable housing spread more evenly across the site;*
- *road layout amended to address issues raised by the Highway Authority; and*
- *updated Noise Assessments submitted.*

THE SITE AND ITS LOCATION

The application relates to land forming the north-eastern corner of the Sydenham Industrial Estate. The site comprises an amalgamation of various different parcels of land and buildings that are now largely vacant. When fully occupied the buildings were used for a variety of purposes included light industrial, general industrial, warehousing and car sales and repairs. The existing buildings on the site are industrial buildings that are utilitarian in appearance.

Some occupiers remain on site, but the applicant advises that these are all on short term leases that have either already expired or will expire this year. This includes occupiers using premises for storing scaffolding equipment, for car sales and as a haulage yard. There are also two charitable organisations occupying premises on a grace and favour basis: Christian Mission and Agenda 21. The applicant advises that Agenda 21 also have an illegal sub-tenant operating as Greengeek Ltd.

The Grand Union Canal runs along the northern boundary of the site. There are houses on the opposite side of the canal. The land on the opposite side of the canal is situated within the Leamington Spa Conservation Area. Sydenham Drive runs along the eastern boundary of the site. There are houses, flats and the Stanley Court local shopping centre on the opposite side of Sydenham Drive. There is a wide grass verge separating the site from Sydenham Drive. St. Mary's Road runs along part of the southern boundary of the site. There are warehouse premises on the opposite side of St. Mary's Road.

The western boundary of the site has a rather more complex alignment. This boundary runs partly down Ramsey Road, but excludes the Magnet premises on the eastern side of the road. The boundary runs around the sides and rear of the Magnet site and then along Ramsey Road in front of Magnet to include some of the industrial buildings on the opposite side of the road. This part of the boundary runs along the northern side of the Bellagio Stone unit and along the eastern side of the former Elisabeth the Chef premises (now vacant).

The Bellagio Stone is used for general industrial purposes (Use Class B2). Magnet is a trade warehouse (Use Class B8). The Sydenham Industrial Estate continues on the opposite side of St. Mary's Road.

There are a number of trees and shrubs along the boundary with the canal. There are also a number of trees in front of the site on St. Mary's Road and Sydenham Drive (within the highway verge).

PLANNING HISTORY

There have been a significant number of previous planning applications relating to the various industrial and car sales premises across the application site. However, none of these are relevant to the consideration of the current proposals.

RELEVANT POLICIES

- *DAP3 - Protecting Nature Conservation and Geology (Warwick District Local Plan 1996 - 2011)*
- *SC2 - Protecting Employment Land and Buildings (Warwick District Local Plan 1996 - 2011)*
- *SC1 - Securing a Greater Choice of Housing (Warwick District Local Plan 1996 - 2011)*
- *Warwick District Local Plan 2011-2029 Publication Draft - published April 2014. Relevant policies: DS2, DS3, DS5, DS6, DS7, DS8, DS10, DS11, DS17, EC3, HO, H1, H2, H4, SC0, BE1, BE3, TR1, TR2, TR4, HS1, HS4, HS6, HS7, CC1, CC3, FW2, FW3, FW4, HE2, NE1, NE2, NE3, NE5, NE7, DM1 & DM2.*
- *DP5 - Density (Warwick District Local Plan 1996 - 2011)*
- *Residential Design Guide (Supplementary Planning Guidance - April 2008)*
- *DAP8 - Protection of Conservation Areas (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)*
- *DP14 - Crime Prevention (Warwick District Local Plan 1996 - 2011)*
- *UAP1 - Directing New Housing (Warwick District Local Plan 1996 - 2011)*
- *SC13 - Open Space and Recreation Improvements (Warwick District Local Plan 1996 - 2011)*
- *DP7 - Traffic Generation (Warwick District Local Plan 1996 - 2011)*
- *SC11 - Affordable Housing (Warwick District Local Plan 1996 - 2011)*
- *SC14 - Community Facilities (Warwick District Local Plan 1996 - 2011)*
- *National Planning Policy Framework*
- *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)*
- *Sustainable Buildings (Supplementary Planning Document - December 2008)*
- *Distance Separation (Supplementary Planning Guidance)*

- *The 45 Degree Guideline (Supplementary Planning Guidance)*
- *Vehicle Parking Standards (Supplementary Planning Document)*
- *Open Space (Supplementary Planning Document - June 2009)*
- *Affordable Housing (Supplementary Planning Document - January 2008)*
- *Development Management Policy Guidance: Achieving a Mix of Market Housing on new Development Sites (Agreed by Executive - 19th June 2013)*
- *Garden Towns, Villages and Suburbs - A prospectus for Warwick District Council (Consultation document - May 2012)*

SUMMARY OF REPRESENTATIONS

Town Council*: No objection. The Town Council welcomes the revised proposal but would like to see the inclusion of provision for allotments.*

Public response: *33 objections and 7 representations in support have been received.*

The objections are from nearby residents as well from the occupier of the adjacent Bellagio Stone industrial premises. Objections have also been received from Action 21 and Greengeek Ltd (who currently occupy premises within the application site).

Local residents have raised the following concerns:

- *the three storey flats in the skyline view of Chesham Street and Waterloo Street would detract from the character and appearance of the Conservation Area;*
- *the flats should be relocated to the Sydenham Drive frontage;*
- *there is no need for the flats;*
- *more bungalows are needed;*
- *social rented homes are already well catered for in this area;*
- *the development is all low cost / affordable, there is little mix of housing type;*
- *the houses opposite Chesham Street and Waterloo Street should be set back further (as far as they are set back opposite Eastnor Grove);*
- *loss of privacy;*
- *overlooking of the houses in Chesham Street and Waterloo Street;*
- *increased traffic, particularly along St. Mary's Road;*
- *the site access should be direct from Sydenham Drive;*
- *detrimental to highway safety;*
- *insufficient parking;*
- *more green space should be included;*
- *allotments should be provided;*
- *loss of trees and other vegetation along the canal;*
- *harmful ecological impact;*
- *overdevelopment;*
- *harm to the character and appearance of the area;*
- *flood risk;*
- *pollution of the canal;*
- *detrimental impact on the future operation of adjacent businesses;*

- *the houses and flats adjacent to Bellagio Stone would suffer from poor living conditions;*
- *noise from increased traffic and from construction activities; and*
- *existing facilities cannot cope with this number of new dwellings.*

The occupier of the adjacent Bellagio Stone premises has raised the following concerns:

- *the company is growing and is making an important contribution to the local economy, employing 30 people;*
- *the company is keen to expand further;*
- *their premises benefit from unrestricted B2 use (general industrial);*
- *typical working hours are 6am to midnight weekdays but is has been increasingly necessary to continue production at weekends and bank holidays and in the early hours of the morning;*
- *a B2 use is, by definition, unacceptable in a residential area;*
- *the proposals represent inappropriate piecemeal development;*
- *the industrial estate should be redeveloped in a comprehensive manner;*
- *the applicant's noise report is flawed;*
- *the noise generated by Bellagio Stone would have a serious and adverse impact upon residential amenity;*
- *the Council required Bellagio Stone to relocate from their previous property due to noise complaints from neighbouring residents;*
- *if the proposed houses are built this will result in the company having restrictions imposed on them by Environmental Health and this will have a severe and detrimental impact on their business and their employees;*
- *the existing industrial premises would represent a very poor outlook for the proposed dwellings;*
- *deliveries to Bellagio Stone and Magnet are on HGVs and cranes and these will cause further noise, disturbance, inconvenience and traffic congestion for the new residents; and*
- *harm to pedestrian safety, particularly children, due to the lack of division between industrial and residential road users.*

In response to the suggestion of a condition prohibiting occupation of the nearest dwellings for 3 years, the occupier of Bellagio Stone has commented as follows:

- *Bellagio Stone have been advised by their solicitors that their lease can be extended and so there will not be a scenario where they have to vacate the premises after the current lease expires, unless they are forced to do so by Environmental Health and frictions with local residents;*
- *the suggested condition would be unlawful because it relates to issues of land ownership and leases, which are not material planning considerations;*
- *the applicants have no control over what happens with the occupation of the Bellagio Stone unit;*
- *the condition does not change the fact that the Bellagio Stone would continue to have a lawful use for B2 purposes and this would be inappropriate in a residential area;*
- *Bellagio Stone have invested thousands in the property with the latest technology in machinery; there is no doubt that they want to remain there;*

- *granting planning permission will effectively blight Bellagio Stone's business and force them out;*
- *the suggested condition does not assist Bellagio Stone and places a restriction on them, whether they are directly referred to or not;*
- *this is poor planning; the industrial area should be comprehensively developed or left as it is; and*
- *the door is open for the applicant to secure the relocation of Bellagio Stone; that would be the proper way to conduct business.*

Action 21 have raised the following concerns:

- *Action 21 are a charity operating a re-use and recycling facility;*
- *as a charity they cannot afford the costs of acquiring and relocating to alternative premises;*
- *the proposals would therefore detrimentally affect the reduction in waste going to landfill currently achieved by Action 21; and*
- *they request a contribution of £80,000 from the developer to assist with their relocation costs.*

Another organisation, Greengeek Ltd, who describe themselves as a social enterprise, have submitted similar comments to those of Action 21.

The 7 supporters make the following comments in support of the development:

- *re-use of land such as this is much better than expanding the town outwards;*
- *provision of affordable housing;*
- *there are plenty of facilities nearby for residents; and*
- *the proposals will improve the appearance of the area.*

St. Marys Residents Association: *Raise concerns about the volume of traffic using St. Mary's Road, particularly lorries.*

Natural England: *No objection.*

Environment Agency: *No objection, subject to conditions.*

Severn Trent Water: *No objection, subject to a condition to require drainage details.*

Warwickshire Police: *No objection. Make detailed recommendations in relation to security measures.*

Canal and River Trust: *No objection, subject to conditions.*

Inland Waterways Association: *No objection to the low cost and affordable housing proposed and the public open space but are saddened to see no innovative or more attractive design features incorporated into the proposed buildings which would tie the estate into the surrounding community and enhance the area both visually and technologically.*

South Warwickshire NHS Trust: *Request a contribution of £1,678 per dwelling towards acute and community healthcare facilities.*

WCC Highways: *No objection, subject to conditions and a contribution of £75 per dwelling towards the provision of sustainable travel packs. Confirm that the proposed development will result in a decrease in traffic compared with the current lawful use of the site (if fully occupied).*

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

WCC Ecology*: The site is adjacent to Ecosite 22/36 and the Grand Union Canal potential Local Wildlife Site. Recommend that the development is set back at least 8m from the canal. Other than that, the findings of the applicant's Ecological Surveys report are accepted. Various conditions and informative notes are recommended in relation to protected species and ecological enhancements.*

WCC Archaeology: *No comment.*

WDC Environmental Health: *Whilst Environmental Health initially objected to the application, they have subsequently withdrawn that objection following the submission of further noise assessments and amendments to the application. Environmental Health have advised that the frequent exceedances of maximum noise levels during the night for Plots 77-86 are far from ideal and can be attributed to the poor compatibility between residential and industrial uses as proposed in this scheme. However, they advise that the Noise Assessments demonstrate that even Plots 77-86 will be broadly compliant with their stipulated noise criteria. As a result, Environmental Health have advised that they can no longer maintain their objection. Conditions are recommended in relation to noise.*

Environmental Health also make other detailed comments in relation to air quality, contamination and construction noise and recommended that conditions are imposed to address all of these issues.

WDC Housing Strategy: *Fully support this substantial proposal for affordable housing from one of the Council's preferred Registered Provider partners.*

WDC Waste Management: *No objection. Make detailed comments about provision for refuse and recycling storage and collection.*

WDC Tree Officer: *No objection.*

ASSESSMENT

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

- *loss of employment land and the principle of development;*
- *the impact on the living conditions of nearby dwellings;*
- *provision of a satisfactory living environment for future occupants of the proposed dwellings;*
- *impact on the character and appearance of the area and the setting of the nearby Conservation Area;*
- *car parking and highway safety;*

- *the mix of market and affordable housing;*
- *Section 106 contributions;*
- *public open space;*
- *impact on trees;*
- *ecological impact;*
- *impact on existing occupiers on the application site; and*
- *health and wellbeing.*

Loss of employment land and the principle of development

Local Plan Policy SC2 states that redevelopment or change of use of existing and committed employment land and buildings for other uses will not be permitted unless one of four criteria are met. Criterion (d) is not relevant because it relates to proposed non-housing uses. The other criteria are:

(a) the location and / or nature of the present employment activity has an unacceptable adverse impact upon adjacent residential uses, and an applicant can demonstrate that it would not be desirable to seek to replace this with any other employment use; or

(b) the applicant can demonstrate that there are valid reasons why the use of a site for the existing or another employment use is not economically viable; or

(c) the proposal is for affordable housing provided in accordance with the definition contained in policy SC11.

In assessing the proposals against Policy SC2, it is first important to note that a large part of the site has a lawful use for car sales, which is not an employment use. Therefore Policy SC2 does not strictly apply to that part of the site.

Criterion (c) of Policy SC2 allows for affordable housing schemes to be constructed on employment sites. However, whilst the applicant is an affordable housing provider, the scheme proposed is not 100% affordable housing as defined in the NPPF. A proportion of the units are market housing, albeit these will be relatively low cost market houses. Therefore the proposals do not fully comply with the exemption in Criterion (c).

The Council's Employment Land Review in 2013 identified the northern part of the Sydenham Industrial Estate (including the current application site) as being potentially suitable for a housing-led redevelopment. This stated as follows:

> *The estate appears tired and has a high level of vacancies, most notably the northern half of the estate. Residential areas adjoin to the north and east. Potential for rationalisation and consolidation of the estate and redevelopment of the northern half of the estate for residential led development.*

The proposals outlined in the Employment Lane Review have been taken forward in the Draft Local Plan. Under Policy DS8, paragraph 2.28 states that the Council has undertaken a review of industrial estates within the District and identified certain areas as being less capable of providing the right type or location of

employment land to meet future business needs. The Sydenham Industrial Estate is referred to as one such area. In addition to this, the majority of the current application site is included as a housing allocation under Policy DS11 of the Draft Local Plan.

Whilst only limited weight can be attached to the Draft Local Plan at this stage, the proposals that it contains in relation to the Sydenham Industrial Estate and the current application site in particular do indicate that this area should be considered suitable for a residential redevelopment. The findings of the Employment Land Review are also a material consideration that should inform any assessment against Policy SC2.

Taking all of the above factors into account, and considering the fact that the majority of the proposed dwellings would meet the NPPF definition of affordable housing, it is concluded that the proposals would comply with criterion (b) of policy SC2 as well as partially complying with Criterion (c).

Now that compliance with Policy SC2 has been established, the proposals must be assessed against Local Plan Policy UAP1.

The application site comprises previously developed land within the urban area. Therefore the proposals would be in accordance with Local Plan Policy UAP1.

Impact on the living conditions of nearby dwellings

The proposed dwellings would be situated well away from the nearest existing dwellings. The separation distances would be well in excess of the minimum distances required by the Council's Distance Separation Guidelines. The closest relationship would be between the gable ends of the two storey dwellings in the north-western corner of the site and the existing houses on the opposite side of the canal (at the end of Chesham Street and Waterloo Street). This separation distance would be 31.5m. The separation distances from existing dwellings are considered to be more than adequate to ensure that the proposed development will not cause unacceptable loss of light, loss of outlook or loss of privacy for nearby dwellings.

Objectors have raised particular concerns about the 3 storey block of flats in the north-western corner of the site. However, these flats would be over 60m from the existing dwellings, with the canal, trees and proposed houses in between. Therefore the flats would not cause any loss of light, loss of outlook or loss of privacy for existing dwellings.

For the above reasons it has been concluded that the proposals would have an acceptable impact on the living conditions of neighbouring dwellings.

Provision of a satisfactory living environment for future occupants of the proposed dwellings

The site adjoins existing industrial and warehouse premises. Whilst some of these premises are currently vacant, some are occupied, including two units that adjoin the boundary of the application site. These are Magnet, a trade warehouse premises, and Bellagio Stone, a stone surface manufacturer.

A Noise Assessment was submitted with the application. This confirmed that Bellagio Stone is the most significant source of noise in the vicinity of the site. Further assessments have been carried out and submitted at the request of Environmental Health to ensure that the assessment captures the "worst case" scenario for the operation of Bellagio Stone, including working through the night.

As a result of these further Noise Assessments, the design and layout of the dwellings nearest to Bellagio Stone have been amended to provide further noise mitigation. This includes joining the two blocks of single-aspect flats on the northern side of Bellagio Stone into a single continuous block to create an enhanced noise barrier. Furthermore, the proposed dwellings that would face Bellagio Stone from the opposite side of Ramsey Road have been redesigned to ensure that all of the main "living" rooms (e.g. lounges and bedrooms) have windows in the rear elevation. As a result, the windows in the front elevations of those dwellings (serving kitchens, bathrooms, hallways and landings) will not need to be opened by residents. These dwellings have also been set back from Ramsey Road behind a landscape strip.

Whilst Environmental Health initially objected to the application, they have subsequently withdrawn that objection following the submission of further noise assessments and amendments to the application. The Noise Assessments demonstrate that the standards for maximum noise levels within habitable rooms that have been specified by Environmental Health would be met in full for all of the proposed dwellings except for plots 77-86. The data demonstrates that these plots would be broadly compliant, but that the maximum noise levels (L_{Amax}) are likely to be exceeded between 2-10 times during the night. Of course this is all assuming that Bellagio Stone operate through the night and create the same noise levels at night that they generate during the day; that was the worst case scenario that Environmental Health required to be assessed.

The WHO Guidelines for Community Noise (1999) state that maximum noise levels (L_{Amax}) should not be exceeded more than 10-15 times per night, although the guidelines also state that these events should be avoided and that noise levels lower than these may still be disturbing depending on the nature of the noise source.

Environmental Health have advised that the frequent exceedances of maximum noise levels during the night for Plots 77-86 are far from ideal and can be attributed to the poor compatibility between residential and industrial uses as proposed in this scheme. However, they advise that the Noise Assessments demonstrate that even Plots 77-86 will be broadly compliant with their stipulated noise criteria. As a result, Environmental Health have advised that they can no longer maintain their objection.

Based on the advice from Environmental Health, a refusal of planning permission would not be justified on "technical" noise grounds. However, it is still necessary to assess whether the proposed juxtaposition of existing and proposed uses is appropriate in planning terms. As a general rule, it would normally be considered undesirable to have housing in close proximity to noisy industrial premises such as Bellagio Stone. This matter also requires particularly careful assessment in

the current case due to the history of noise complaints associated with the business in question.

Bellagio Stone previously occupied premises elsewhere on Sydenham Industrial Estate, at Units 6 and 7 St. Mary's Road. That resulted in noise complaints from nearby residents. Environmental Health issued a Noise Abatement Notice. Also, as those premises only had planning permission for light industrial use (Use Class B1), the Council took planning enforcement action to require them to vacate that site in 2009. As a result, they relocated to their current premises, which had the necessary planning permission for general industrial use and is situated further away from dwellings.

Bellagio Stone have objected to the current application. Their concerns are summarised in the "Summary of Representations" section above. This includes concerns about the impact of noise from their operation on future residents and concerns about the restrictions that would be imposed on the operation of their business due to dwellings being constructed so close.

The relationship between the proposed development and the Magnet premises is also not ideal, with the application site boundary adjoining three sides of the Magnet site as well as continuing on the opposite side of Ramsey Road. The proposed layout shows dwellings adjoining the southern and eastern boundaries of the Magnet site and further dwellings facing Magnet from the opposite side of Ramsey Road. However, the Noise Assessment indicates that Magnet generates much less noise than Bellagio Stone and so noise itself is less of an issue. That is to be expected given that Magnet is a warehouse use (Use Class B8), rather than general industrial (Use Class B2). Nevertheless, deliveries and commercial activities associated with Magnet still have the potential to be intrusive in close proximity to the proposed dwellings.

Ideally the redevelopment of this area would come forward in a comprehensive manner. This would avoid potentially awkward relationships between industrial and residential premises. However, the applicant advises that this is not possible in the current case. The application relates to the extent of land that the applicant has been able to assemble, resulting in the rather convoluted site boundary "wrapping around" the Magnet site and abutting the Bellagio Stone site. The applicant advises that approaches have been made to adjoining occupiers in an attempt to facilitate a comprehensive redevelopment, but these have been unsuccessful. In fact, Magnet has recently signed a new 10 year lease on their premises. As a result, the applicant's argument is that a refusal of planning permission would not facilitate the comprehensive redevelopment of the area, it would merely result in the application site remaining vacant and the opportunity to secure a substantial amount of affordable housing would be missed.

This brings us to the crux of this issue. The issue turns on a balance between the negative aspects associated with this being a rather piecemeal development, balanced against the benefits of securing a substantial amount of affordable housing. This balancing exercise must be undertaken against the backdrop of a lack of a five year supply of housing land and a significant unmet need for affordable housing. In such circumstances, paragraph 14 of the NPPF dictates that there should be a presumption in favour of sustainable development.

However, it is important to remember here that meeting housing needs is just one aspect of sustainable development. Creating a satisfactory living environment is also an aspect of sustainable development, as is the promotion of economic development and supporting existing businesses. Therefore the judgement cannot be that the provision of affordable housing inevitably outweighs all other factors.

Nevertheless, the provision of a substantial amount of affordable housing is a significant benefit that weighs heavily in favour of granting permission. This benefit is of particular significance because it assists in meeting one of the Council's key priorities, the provision of affordable housing, as reflected in the current Local Plan and the Draft Local Plan. The land ownership issues represent a major barrier to achieving a comprehensive redevelopment at the present time. However, it may well be that granting planning permission for the current scheme would act as a catalyst for the other sites coming forward for redevelopment.

It is understood that Bellagio Stone's current lease expires in October 2017. Whilst land ownership and private leases are not strictly relevant to the assessment of planning applications, this does give an indication that the particular noise issues associated with that site may not continue in the medium / long term. It is important to remember that the Bellagio Stone unit has an unrestricted general industrial planning permission and therefore, even if the current occupier vacated the site, there would be nothing to stop a similarly noisy business occupying the premises in future. Nevertheless, any future prospective occupier of that unit would be aware of the close proximity of the new dwellings when they decide whether to occupy the premises. Similarly, Bellagio Stone would be aware of the situation when deciding whether to extend their lease.

This is not to diminish in any way the potential impact on Bellagio Stone's business or the disruption that a relocation would cause (to the business and their 30 employees). However, this must be considered in the context of a situation where Environmental Health advise that the proposed dwellings would meet their noise standards based on the existing operation of Bellagio Stone.

Separate from the planning process, the Council is exploring options to assist Bellagio Stone in relocating, recognising that they are a successful business that should be supported. The applicant has proposed a compromise whereby the occupation of the 10 dwellings immediately opposite Bellagio Stone will be delayed until after their current lease expires. This would enable Bellagio Stone to consider whether to seek alternative premises at the end of their lease, recognising that the technical noise information demonstrates that there should not be a problem if they choose to stay. Such a restriction would at least avoid a situation where Bellagio Stone would have these most sensitive dwellings imposed upon them whilst they are tied to their current lease. A condition could secure this restriction, although it would be more appropriate for this to restrict the occupation of plots 70-86 (i.e. 17 dwellings) to ensure that this covers all of the units where the WHO maximum noise levels are likely to be exceeded on occasions during the night.

Drawing all of the above considerations together, it is apparent that this is not an easy decision to make because it involves two key Council priorities, promoting economic development and delivering affordable housing, which in this case are competing objectives. However, it is considered that the results of the Noise Assessments (demonstrating compliance with the relevant noise standards) and the lack of objection from Environmental Health tip the balance in favour of granting planning permission and securing this much needed affordable housing. As a result, these benefits are considered to outweigh any more general concerns about the living environment for future occupants of the proposed dwellings.

Impact on the character and appearance of the area and the setting of the nearby Conservation Area

The fact that the site does not include the Magnet unit has a negative impact on the proposed layout. With the site "wrapping around" the Magnet unit, this will inevitably result in those premises appearing as a rather incongruous island of commercial development in the middle of a residential neighbourhood. However, for the reasons rehearsed earlier in this report, the applicant has been unable to assemble all the land required for a comprehensive development. Whilst a layout that retains the Magnet unit is not considered to be ideal in design terms, it is considered that this is outweighed by the significant benefits associated with the provision of a substantial amount of affordable housing.

In other respects the layout has been amended to provide a layout that is to an appropriate standard of design. As amended, the layout shows houses largely fronting onto the streets around and within the development as well as the canal. The design of the houses is appropriate for this location and is in keeping with surrounding development.

The proposals would represent a significant improvement in the environment alongside the canal. At present the hard surfaced yard areas of the industrial premises are hard up against the boundary with the canal. In contrast, the proposed layout shows public open space alongside the canal. All of the existing trees along the boundary with the canal are proposed to be retained.

Objectors have raised concerns about the impact of the development on the setting of the Leamington Spa Conservation Area. However, the site is separated from the Conservation Area by the canal and the associated trees along its bank. Furthermore, a large part of the development adjacent to the canal would comprise open space. Therefore the development would not have a significant visual impact on the Conservation Area. In fact, compared with the existing industrial buildings, the proposals would enhance the setting of the Conservation Area.

Car parking and highway safety

The proposed car parking provision accords with the Council's Parking Standards. Therefore the proposals will not cause unacceptable overflow parking on surrounding streets.

Turning to highway safety, it is noted that local residents have raised concerns about increased traffic as a result of the proposed development. However, the Highway Authority have confirmed that there would in fact be a reduction in traffic compared with the existing lawful use of the site (if fully occupied). Consequently there are no grounds for requiring any highway mitigation measures as a condition of this development. The proposed layout has been amended to address any concerns that the Highway Authority may have had. Therefore the proposals are considered to be acceptable from a highway safety point of view.

The mix of market and affordable housing

The scheme will provide well in excess of 40% affordable housing and consequently the proposals are in accordance with Local Plan Policy SC11. In terms of the mix of housing, the layout has been amended to ensure a reasonable spread of affordable and market units across the site.

Objectors have raised concerns about the mix of housing proposed and in particular the amount of affordable housing (i.e. too much) and the predominance of low cost market housing. However, the proposed mix is considered to be appropriate for this location, for the reasons stated below.

Looking first at the market units, the Council's Guidance on the Mix of Market Housing identifies the greatest need as being for smaller (2 and 3 bedroom) houses with gardens. The market housing proposed in the current application includes predominantly that type of housing. The Council has no policies that require larger market dwellings.

Turning to the affordable housing, it is true that there are some limited concentrations of affordable housing not too far from the application site, notably around the Fallow Hill flats on the opposite side of Sydenham Drive. However, looking at the wider area, there is a reasonable mix of tenures. It is also important to note that the affordable housing proposed for the application site comprises affordable rented units and shared ownership units. This would serve the broaden the mix of affordable housing units in the locality, which currently comprises predominantly social rented units. Therefore the proposals would not create a harmful over-concentration of affordable housing in this locality.

Section 106 contributions

Consultees have requested various contributions towards community facilities, including hospitals, education facilities and measures to promote sustainable travel. However, the applicant has argued that these contributions would render the scheme unviable because they are reliant on grant funding to finance the development. The applicant has submitted a viability appraisal in support of their case.

The Council appointed consultants to review the applicant's appraisal. The Council's consultants have confirmed that the applicant's viability case is robust and that the payment of any Section 106 contributions would render the scheme unviable.

Public open space

The application proposes to create an area of public open space alongside the canal. In total this would amount to an area of approximately 0.5 hectare. This would be short of the amount of public open space that is required by the Council's Open Space Supplementary Planning Document (1.9 hectares). Due to the viability issues that have been referred to previously, an off-site contribution to compensate for this under-provision is not feasible. Furthermore, increasing the amount of public open space on site would further adversely affect viability. It is also of note that there are a number of existing public open spaces not too far from the application site. Therefore, considering the significant benefits associated with the provision of a substantial amount of affordable housing, together with the viability issue, it is considered that the open space provision is acceptable in this case.

The Town Council have requested the provision of allotments. However, given the limited amount of open space and its configuration, the provision of allotments would not be practical on this site. There are substantial existing allotments a short distance away on Radford Road.

Impact on trees

The application proposes to retain all of the significant trees around the site. The most important of these are those trees along the boundary with the canal. In terms of the impact of the development on these trees, the Council's Tree Officer has raised no objection to the application. Therefore it is considered that the development would not harm the health of the retained trees, including those within the highway verge in St. Mary's Road and Sydenham Drive.

Ecological impact

An Ecological Survey report was submitted with the application. WCC Ecology have accepted the findings of this report and have advised that the proposals would have an acceptable ecological impact, provided conditions are put in place to impose certain safeguards.

The site is adjacent to Ecosite 22/36 and the Grand Union Canal potential Local Wildlife Site. Therefore, one of the safeguards recommended by WCC Ecology is that the development is set back at least 8m from the canal. This is achieved with the revised layout, with this area being protected as part of the public open space.

Health and Well-being

The proposals would provide affordable housing for people in housing need. This is a significant benefit that contributes to health and well-being.

Impact on existing occupiers on the application site

Some of the existing premises on the application site remain occupied. This includes a variety of occupiers using premises for storage, for car sales, as a

haulage yard and for charitable purposes. Whilst only some of these occupiers would meet the definition of "employment" uses in planning terms (i.e. use classes B1, B2 and B8), most of them employ staff on site. The relocation of these occupiers is regrettable, but the applicant advises that they are all on short term leases that have either already expired or will expire this year. Consequently they should all have been aware of the likelihood of having to vacate the site in the near future.

Two of the existing occupiers have requested financial assistance with relocating. These are two of the charities / not-for-profit organisations, Agenda 21 and Greengeek Ltd. However, aside from the fact that the viability of the development is already marginal, there are no legitimate planning grounds for requiring the applicant to provide assistance, particularly considering the short-term nature of the leases. Furthermore, according to the applicant, Agenda 21 have been permitted to occupy the site on a grace and favour basis. In those circumstances it would be particularly unreasonable to then expect the site owner to pay for their relocation. In addition, the applicant has advised that the other occupier that has requested relocation assistance, Greengeek Ltd, is an illegal sub-tenant.

Other Matters

With regard to the issue of contamination, a phase 1 and 2 risk assessment of the site has been undertaken by the applicant. This has identified some potential pollutant linkages which require further detailed investigation and/or remedial action. Environmental Health have recommended a condition to require this work to be undertaken.

Environmental Health have advised that the scheme should include measures to mitigate the impact of the development on air quality. A condition is recommended to deal with this issue.

Objectors have raised concerns about construction noise. In accordance with the advice of Environmental Health, a condition is recommended to require the submission of a Construction Management Plan to address this issue.

There has been no objection from the Canal and River Trust, subject to certain conditions being imposed. Therefore it is considered that the proposals would have an acceptable impact on the adjacent canal.

The bin stores for the proposed flats have been increased in size in accordance with the recommendations of the Council's Waste Management team. The layout of the development is now considered to be acceptable from a Waste Management point of view.

The other issues raised by objectors have also been carefully considered, including the concerns about flood risk, pollution of the canal and increased traffic. However, none of these other issues would justify a refusal of planning permission.

SUMMARY/CONCLUSION

The redevelopment of this part of the industrial estate for residential purposes is considered to be acceptable in principle, in accordance with the 2013 Employment Land Review and the Draft Local Plan. The proposals would have an acceptable impact on the living conditions of neighbouring dwellings and on the character and appearance of the area and the setting of the nearby Conservation Area. Any concerns about the living environment for future occupants of the proposed dwellings or the impact on existing businesses adjacent to the site are outweighed by the significant benefits associated with the provision of a substantial amount of affordable housing. The restrictions on occupying some of the dwellings will also provide some assistance with this issue in the short term. The benefits of the scheme also outweigh any concerns about the under-provision of public open space. The proposed layout shows an appropriate spread and mix of affordable and market housing and it has been demonstrated that the provision of any form of Section 106 contributions would render the scheme unviable. The proposals are considered to be acceptable in terms of car parking, highway safety, ecological impact and in terms of the impact on trees. Finally a refusal of planning permission cannot be justified on the grounds of the relocation of existing short term tenants from the application site. Therefore it is recommended that planning permission is granted.