PLANNING COMMITTEE

Minutes of the meeting held on Tuesday 17 December 2013 in the Town Hall, Royal Leamington Spa at 6.00 pm.

PRESENT: Councillor Rhead (Chairman); Councillors Boad, Mrs Bunker, Ms De-Lara-Bond, Doody, Mrs Knight, MacKay, Weber, and Williams.

Apologies were received from Councillor Brookes.

127. **SUBSTITUTES**

Councillor Mrs Knight substituted for Councillor Wilkinson.

128. **DECLARATIONS OF INTEREST**

Minute Number 134 – Agenda item 9 – W13/1339- Unit 11, Livery Street, Regent Court, Royal Leamington Spa

Councillor Weber declared that he was a Ward Councillor for the site in question. He had met with residents, officers and developers about this application but had not formed an opinion on the application.

129. **SITE VISITS**

To assist with decision making, Councillors Boad, Ms De-Lara-Bond, Rhead and Weber visited the following application sites on Saturday 14 December 2013:

W13/1339 – Unit 11, Regent Court, Royal Leamington Spa
W13/1593 – 57 Roseland Road, Kenilworth

Councillor Mrs Bunker visited both sites independently and Councillor Doody visited Regent Court independently.

Councillors had previously visited the Brickyard Barn, Mallory Road site in early November and details of the Councillors who attended this were documented in the minutes of the Planning Committee meeting 5 November 2013 (Minute number 109).

130. **MINUTES**

The minutes of the meetings held on 26 November 2013 had not been completed in time for approval.

131. **W13/1608 – LAND AT BRICKYARD BARN, MALLORY ROAD, BISHOP'S TACHBROOK**

The Committee considered an application from Sun Glow Power for the construction of a 4.1 MW solar photovoltaic park complete with all necessary inverters, security fencing, switch gear and landscaping. This was a re-submission of application W13/1134.

The application was presented to the Committee because a number of objections had been received.

The officer considered the following policies to be relevant:

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)
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)
RAP9 - Farm Diversification (Warwick District Local Plan1996 - 2011)
RAP10 - Safeguarding Rural Roads (Warwick District Local Plan 1996 - 2011)
DAP3 - Protecting Nature Conservation and Geology (Warwick District Local Plan 1996 - 2011)
National Planning Policy Framework

An addendum circulated at the meeting summarised comments received following publication of the agenda. The addendum included a plan of the substation and photograph along with a letter from the Rt Hon Gregory Barker MP, Minister of State for Energy and Climate Change sent to all Local Authorities in November 2013.

In addition, the addendum referenced further objections received including from CPRE, which made reference to the Minister's letter. Alongside the objection from CPRE, additional objections had been received from five local residents and the local parish council. One resident had withdrawn their previous objection and the Environment Agency and County Council Public Rights of Way had notified the District Council that they did not have any objections to the application.

It was the officer's opinion that the proposal, including mitigation measures, would have limited impact on the visual amenities of the area and neighbouring amenity and would help to meet the Government's objectives, set out in the NPPF 2012 by increasing supplies of renewable energy, thus reducing carbon dioxide emissions. The proposal was therefore considered to comply with national policy and the local policies listed.

Councillor Deely, representing Bishop's Tachbrook Parish Council, addressed the Committee and informed them of the Parish Council's objections to the application. Mr Bell also addressed the Committee in support of the application.

Councillors agreed that condition 13 of the report should be amended to safeguard protected species of birds and that condition 7 of the report should also be amended to ensure that approval was undertaken by Warwick District Council in consultation with Bishop's Tachbrook Parish Council.

Following consideration of the report and presentation, along with the representations made at the meeting and the information contained within the addendum, the Committee resolved that permission should be granted subject to amendments to Conditions 7 and 13.

RESOLVED that W13/1608 be GRANTED subject to the following conditions:

(1) the development hereby permitted shall begin not later than three years from the date of this permission. **REASON:** To comply with Section 91 of the Town and Country Planning Act 1990 (as amended);

(2) the development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawing(s) FKV0031, GEUKD-9001-1004-5001C, GEUKD-4001-1004-0003C, 9001-1004-002C, GEUKD-5001-1004-0010A, GEUKD-5001-1004-0500A, GEUKD-1001-1004-0011A, GEUKD-1001-1004-0001K, GEUKD-5001-04-0006B, GEUKD-1001-1004-0008J, GEUKD-5001-04-0006B, GEUK-5001-1004-8000A, GEUKD-4001-1004-0001C, GEUKD-4001-1004-0002C, and specification contained therein, submitted on 05/08/13. **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;

(3) no development shall take place until details of the proposed construction, materials and surfacing of the site access road and its junction with the public highway Mallory Road have been submitted to and approved in writing by the Local Planning Authority. These details shall include confirmation of visibility splays in both directions along the public highway Mallory Road, details of proposed boundary treatments (including any gates), swept path diagrams for the delivery vehicles using the site entrance including construction of temporary and permanent access arrangements to the site. details shall be carried out as approved. **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;

(4) the development shall proceed only in strict accordance with a construction method statement which has 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: details of the construction of temporary and permanent access arrangements to the site; details of the proposed temporary site compound for storage of materials, machinery (including areas designated for car parking); delivery time limits to the site or removal from the site of any materials, construction materials, plant or equipment relating to the preparation of the site for the development or the construction of the development; details and timetable for post construction restoration/reinstatement of the temporary access; details of the protection of public footpaths and bridleways during construction; and 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. **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;

(5) the development shall not be commenced unless and until a suitable signing scheme for the period of construction, in accordance with Chapter 8 of the Traffic Signs Manual, is provided on the approach to the junction of the public highway Mallory Road and the B4100 Banbury Road junction access along the public highway. Such scheme shall be agreed in accordance with the directions of the Area Team at the expense of the developer. Details shall be carried out as approved. **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;

(6) the development hereby permitted shall only be undertaken in strict accordance with approved plans GEUKD-1001-1004-0011 A and GEUKD-4001-1004-0003C and further details of both hard and soft landscaping works which

have been submitted to and approved in writing by the local planning authority (in consultation with community representatives). 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, including the new vehicular access, which shall be made of porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area. The hard landscaping works shall be completed in full accordance with the approved details within three months of the completion of the installation 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 completion of installation. 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;

(7) no lighting or illumination of any part of the site shall be installed or operated unless and until details of such measures shall have been submitted to and approved in writing by the local planning authority and such works, and use of that lighting and/or illumination, shall be carried out and operated only in full accordance with those approved details. **REASON:** To ensure that any lighting is designed so as not to detrimentally affect the amenities of the occupiers of nearby properties in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011;

(8) within one month of the installation of the

CCTV columns they shall have been colour coated in full accordance with details to be submitted to and approved in writing by the local planning authority. **REASON:** To ensure that the CCTV does not to detrimentally affect the visual amenities of the area in accordance with Policies DP1 of the Warwick District Local Plan 1996-2011;

(9) no part of the development hereby permitted shall be commenced and nor shall any equipment, machinery or materials be brought onto the site until a scheme for the protection of all existing trees and hedges to be retained on site has been submitted to and approved in writing by the local Planning Authority and has been put in place. The scheme must include details of the erection of stout protective fencing and be in accordance with British Standard BS5837:2012, Trees in Relation to. Nothing shall be stored or placed in those areas fenced in accordance with this condition and nor shall the grounds levels be altered or any excavation take place without the prior consent in writing of the local Planning Authority. The approved scheme shall be kept in place until all parts of the development have been completed and all equipment, machinery and surplus materials have been removed. **REASON:** In order to protect and preserve existing trees within the site which are of amenity value in accordance with Policy DP3 of the Warwick District Local Plan 1996-2011;

(10) the development hereby permitted shall not commence until a bat survey of the mature oak tree located within the site, in accordance with BCT Bat Surveys – Good Practice Guidelines, has been carried out to determine the presence/absence of bat roost in this tree, and a detailed mitigation plan including a schedule of works and timings has been submitted to and approved in writing by the Local Planning Authority. Such approved mitigation plan shall thereafter be implemented in full. **REASON:** To ensure that protected species are not harmed by the development in accordance with National Planning Policy Framework (NPPF), ODPM Circular 06/2005 and Saved Policy DAP 3 of the Warwick District Local Plan;

(11) the development shall be carried out only in full accordance with sample details of the ancillary inverter, transformer/control room

and sub-station structures which 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;

(12) the development hereby permitted shall be undertaken in the presence of a ecological clerks of works appointed by the applicant to supervise all destructive and construction works on site. Should any protected species, such as reptiles or badgers, be found during this operation, then work must cease immediately whilst WCC Ecological Services or Natural England are consulted for further advice. In addition to this the qualified ecologist worker shall submit a brief report to the local planning authority within 1 month following completion of the supervised works to summarise the findings. **REASON:** To ensure that protected species are not harmed by the development in accordance with National Planning Policy Framework (NPPF), ODPM Circular 06/2005 and Saved Policy DAP 3 of the Warwick District Local Plan;

(13) the development hereby permitted (including vegetation clearance) shall not commence until further breeding bird surveys of the site have been carried out and a detailed mitigation plan including a schedule of works and timings has been submitted to and approved in writing by the Local Planning Authority. Such approved mitigation plan shall thereafter be implemented in full. **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;

(14) the development hereby permitted, including solar arrays, associated inverters, sub-station and other ancillary structures, fencing and security measures shall be removed in their entirety and the land reinstated to its former condition as soon as practicably reasonable (not including any agreed landscaping planting to enhance the site boundaries) within 25 years of the date of this permission or when the development is no longer needed for generating renewable energy, whichever

comes first. **Reason:** To ensure that a redundant facility is not retained to the detriment of the visual amenity of the locality and contrary to Policy DP1 of the Warwick Local Plan 1996-2011 and the aims of NPPF 2012, which provides justification for such renewable energy projects; and

(15) the delivery to the site or removal from the site of any materials, construction materials, plant or equipment relating to the preparation of the site for the development or the construction of the development, shall be restricted to the hours of 09:30 – 16:00 on Monday to Friday. **REASON:** To avoid construction movements at peak times in the interests of highway safety and 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.

132. **W13/1484- GLASSHOUSE LANE, LAPWORTH**

The Committee considered an application from Mrs Ellhia for the construction of a manege, change of use of land and stable to a riding school.

The application was presented to the Committee because a number of objections had been received.

The officer considered the following policies to be relevant:

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)
DP4 - Archaeology (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)
RAP10 - Safeguarding Rural Roads (Warwick District Local Plan 1996 - 2011)
RAP13 - Directing New Outdoor Leisure and Recreation Development (Warwick District Local Plan 1996 - 2011)
Vehicle Parking Standards (Supplementary Planning Document)
National Planning Policy Framework

An addendum circulated at the meeting advised that Lapworth Parish Council had submitted objections to the application after it had been made aware of local concerns/ highway comments.

It was the officer's opinion that the proposed new business use represented inappropriate development within the Green Belt, however, given the proposed small scale of the riding school and the limited harm upon

openness when compared to the existing and lawful use of the site, very special circumstances were considered to exist to justify otherwise inappropriate development within the Green Belt. No amenity or highway safety issues were raised and the scheme was therefore considered to be acceptable.

Mr Alan Palmer, representing the community living in Glasshouse Lane, addressed the Committee in opposition to the application.

Following consideration of the report and presentation, along with the representation made at the meeting and the information contained within the addendum, the Committee resolved that the decision of the application should be deferred until after a site visit had taken place.

RESOLVED that W13/1484 be DEFERRED pending a site visit.

133. **W13/1593 – 57 ROSELAND ROAD, KENILWORTH**

The Committee considered an application from Mr Sidhu for the erection of a two storey side and rear extensions, and single storey front, side and rear extensions to provide enlarged ground floor shop and two additional dwellings on the upper floors (making three dwellings in total). This was a revised application to W13/1165.

Councillor Davies had requested that this application be presented to the Committee.

The officer considered the following policies to be relevant:

National Planning Policy Framework
SC13 - Open Space and Recreation Improvements (Warwick District Local Plan 1996 - 2011)
Open Space (Supplementary Planning Document - June 2009)
DP6 - Access (Warwick District Local Plan 1996 - 2011)
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)
DAP3 - Protecting Nature Conservation and Geology (Warwick District Local Plan 1996 - 2011)
DP8 - Parking (Warwick District Local Plan 1996 - 2011)
DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)
Residential Design Guide (Supplementary Planning Guidance - April 2008)
Vehicle Parking Standards (Supplementary Planning Document)
DP12 - Energy Efficiency (Warwick District Local Plan 1996 - 2011)
Sustainable Buildings (Supplementary Planning Document - December 2008)

It was the officer's opinion that the development achieved acceptable standards of layout and design and did not give rise to any harmful effects in terms of parking or amenity which would justify a refusal of permission. The proposal was therefore considered to comply with the policies listed.

Mr Royle addressed the Committee in opposition to the application. With the Chairman's permission, he gave Members clearer diagrams for them to compare showing what had been approved in 2009 under application W09/1502, what had been refused under W13/1165 and what was now being proposed. The hand-out also detailed photographs of the current position.

Mr Sidhu addressed the Committee in support of the application, followed by Councillor Vincett, speaking as Ward Councillor, who was also in support of the application.

Councillors noted that the plans Mr Royle had presented were accurate. Members were concerned that the proposals would have an overbearing effect on number 55 Roseland Road and it was felt that some of the works approved under application W09/1509 had already impacted on the amenity of the neighbouring property. The neighbour's conservatory would suffer a loss of light. It was noted that no one particular objection was in itself enough to warrant refusal of the application, but the cumulative effect of all the issues surrounding loss of amenity on the neighbouring properties was.

Following consideration of the report and presentation, along with the representations made at the meeting, the Committee resolved that permission should be refused and that enforcement action should be authorised in respect of all works carried out without planning consent.

RESOLVED that W13/1593 be REFUSED contrary to the recommendations in the report for the following reason:

(1) the proposed development by reason of its scale and massing comprises a visually overbearing feature which unacceptably impacts upon the residential amenities of the occupants of adjoining properties by means of loss of light and visual intrusion to the detriment of the residential amenities of the occupants of those properties contrary to the National Planning Policy Framework and policy DP2 of the Warwick District Local Plan 1996 – 2011;

and

RESOLVED that officers be AUTHORISED to undertake necessary enforcement action in respect of all works carried out without planning consent.

134. **W13/1339 – UNIT 11, LIVERY STREET, REGENT COURT, ROYAL LEAMINGTON SPA**

The Committee considered an application from New River Retail for a change of use from retail (use Class A1) to a restaurant (use Class A3) and associated external alterations including the installation of fume extraction ducting and air conditioning condensers.

The application was deferred at the Planning Committee on 26 November 2013 in order for Council officers and the applicant to consider how the Committee's concerns about noise levels could be mitigated.

The officer considered the following policies to be relevant:

TCP5 - Secondary Retail Areas (Warwick District Local Plan 1996 - 2011)
DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
DP9 - Pollution Control (Warwick District Local Plan 1996 - 2011)
DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)
DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)
DAP9 - Unlisted Buildings in Conservation Areas (Warwick District Local Plan 1996 - 2011)
Sustainable Buildings (Supplementary Planning Document - December 2008)
National Planning Policy Framework

An addendum circulated at the meeting summarised guidance from the planning officer in respect of an additional pre-commencement condition that could be imposed if the Planning Committee considered it appropriate. A letter was also circulated to Members from GL Hearn which answered questions and points that Councillor Weber had raised about the application.

It was the officer's opinion that the proposals had an acceptable impact on the vitality and viability of the Town Centre and on the character and appearance of the Conservation Area. The proposals would also have an acceptable impact on the living conditions of nearby dwellings. Therefore, it was recommended that planning permission was granted.

Mr Barnwell addressed the Committee in objection to the application, followed by Ms Wong who addressed the Committee in support of the application.

Councillors were concerned that residents living in the vicinity would be disturbed by patrons sitting outside, it was, therefore, agreed that a condition be added to prevent the establishment providing seating outside the premises. Councillors also felt that a management plan to control the use and operation of the premises should also be submitted and approved by the Planning Authority in consultation with residents before the restaurant was allowed to operate and to this end it was agreed that Condition 9 be amended to reflect this.

Following consideration of the report and presentation, along with the representations made at the meeting and the information contained within the addendum, the Committee resolved that permission be granted subject to the conditions in the report, with an amendment to condition 9, the additional pre-commencement condition detailed in the addendum and an additional condition to prevent the provision of outside seating.

RESOLVED that W13/1339 be GRANTED subject to the following conditions:

(1) the development hereby permitted shall begin not later than three years from the date of this permission. **REASON:** To comply with Section 91 of the Town and Country Planning Act 1990 (as amended);

(2) the development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawing(s) 220B, and specification contained therein, submitted on 19 September 2013. **REASON:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies DP1, DP2 and DAP8 of the Warwick District Local Plan 1996-2011;

(3) the development hereby permitted shall be carried out only in full accordance with sample details of the facing materials for the external treatment of the extraction flue 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 Policies DP1 and DAP8 of the Warwick District Local Plan 1996-2011;

(4) no development shall be carried out on the site which is the subject of this permission, until large scale details of the external treatment for the extraction flue at a scale of 1:5 have been submitted to and approved by the Local Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details. **REASON:** To ensure an appropriate standard of design and appearance within the Conservation Area, and to satisfy Policy DAP8 of the Warwick District Local Plan 1996-2011;

(5) no customers shall be permitted to be on the premises other than between 0730 and 2330 hours on any day. **REASON:** To ensure that the premises are not used at a time which would be likely to cause nuisance or disturbance to nearby residents in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011;

(6) noise arising from any plant or equipment, when measured one metre from the façade of any noise sensitive premises, shall not exceed the background noise level by more than 3dB(A) (measured as LAeq (5 minutes)). If the noise in question involves sounds containing a distinguishable, discrete, continuous tone (whine, screech, hiss, hum etc.) or if there are discrete impulses (bangs, clicks, clatters, thumps etc.) or if the noise is irregular enough to attract attention, 5dB(A) shall be added to the measured level. **REASON:** To protect the amenities of the occupiers of nearby properties in the locality in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011;

(7) the premises shall not be used for A3 purposes unless odour mitigation measures have been implemented in full accordance with the details specified in the odour assessment by LJ Air Ltd dated 30 August 2013 (Revision A) together with the filter specification submitted on 11 November 2013. The mitigation measures shall be retained at all times thereafter and shall not be removed or altered in any way without the prior written approval of the local planning authority. **REASON:** To ensure that the premises are not used in a manner prejudicial to or likely to cause nuisance to the occupiers of nearby properties in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011;

(8) the kitchen extract system hereby permitted shall not be used unless sound attenuation treatment has been implemented in strict accordance with the recommendations of the Noise Impact Assessment Report by RPS (Acoustics) dated 13 September 2013. The sound attenuation treatment shall be maintained in strict accordance with the approved details at all times thereafter. **REASON:** To ensure that the premises are not used in a manner prejudicial to or likely to cause nuisance or disturbance to the occupiers of nearby properties in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011;

(9) the restaurant hereby permitted shall not be used unless and until a Management Plan to control the use and operation of the premises has been submitted to and approved in writing by the local planning authority (in consultation

with community representatives). The restaurant shall be operated in strict accordance with the approved Management Plan. **REASON:** To protect the living conditions of nearby dwellings, in accordance with Policies DP2 and DP9 of the Warwick District Local Plan;

(10) The restaurant hereby permitted shall not be used unless and until:

(a) Details of an acoustically absorbent canopy have been submitted to and approved in writing by the local planning authority; and

(b) The canopy approved under (a) has been installed in strict accordance with the approved details.

The canopy shall be retained and maintained in accordance with the approved details at all times that the premises are used as a restaurant. **REASON:** To protect the living conditions of nearby dwellings, in accordance with Policies DP2 and DP9 of the Warwick District Local Plan; and

(11) no external seating shall be provided in association with the restaurant hereby permitted. **REASON:** To protect the living conditions of nearby dwellings, in accordance with Policies DP2 and DP9 of the Warwick District Local Plan.

135. **W13/1271 – 68A SMITH STREET, WARWICK**

The Committee considered an application from 81G Limited for a change of use from A1 retail to B1 business use.

The application was presented to the Committee because Councillor Mrs Bromley supported it, but it had been recommended for refusal.

The officer considered the following policies to be relevant:

DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
DP8 - Parking (Warwick District Local Plan 1996 - 2011)
DP9 - Pollution Control (Warwick District Local Plan 1996 - 2011)
DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)
TCP2 - Directing Retail Development (Warwick District Local Plan 1996 - 2011)
TCP4 - Primary Retail Frontages (Warwick District Local Plan 1996 - 2011)
DAP4 - Protection of Listed Buildings (Warwick District Local Plan 1996 - 2011)
DAP5 - Changes of Use of Listed Buildings (Warwick District Local Plan 1996 - 2011)

DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)
Sustainable Buildings (Supplementary Planning Document - December 2008)
National Planning Policy Framework

An addendum circulated at the meeting summarised comments received following publication of the agenda and clarified that the application was a retrospective application to retain the current use of the premises. It confirmed that the vacancy rate of premises in Smith Street was 15% and that Warwick Chamber of Commerce had advised that there were no retailers known to them to be awaiting premises in Warwick. The Chamber also notified that it had no objections to the application.

The Chairman drew Councillors' attention to an email received from Councillor Mrs Sawdon in support of the application.

It was the officer's opinion that the change of use had resulted in the direct loss of an A1 retail unit located with Warwick Town Centre's Primary Retail Frontage on Smith Street. This further erosion of A Class uses was considered to detrimentally effect the retail character and function of this core area and was contrary to the policies listed.

Councillor Ms Littlejohn addressed the Committee in support of the application. She was representing Warwick Town Council and informed the Committee that she owned a shop in Warwick and was a member of the Warwick Chamber of Commerce.

Councillors agreed with the position taken by Warwick Town Council that flexibility was required to ensure that the number of empty units was kept to a minimum. It was agreed that a number of shops would never return to the area and that empty units discouraged other businesses from taking up the vacant units. However, they felt that the application should be limited to this particular applicant so that when that person left, the unit would revert back to A1 use.

Following consideration of the report and presentation, along with the representation made at the meeting and the information contained within the addendum, the Committee resolved that permission be granted.

RESOLVED that W13/1271 be GRANTED contrary to the recommendation in the report subject to the following condition:

(1) this permission shall endure solely for the benefit of the applicant Samantha Hinton only, and on the discontinuance of their use of the land for B1 Use Class purposes, that use shall immediately cease and the unit shall revert back to an A1 Use Class. **REASON:** The continued use of the site within a B1 Use Class would normally be undesirable having regard to the sites location within a primary retail frontage and Warwick Town Centre where 'A' Class uses are protected and would therefore

be contrary to Policies TCP2 and TCP4 of the Warwick District Local Plan 1996-2011. However, considering the manner in which the site has been operated by the applicant and on the understanding that the sub-divided part of the site 68a Smith Street will continue to be let in order to support the viability of the adjoining A1 Use Class at 68 Smith Street, permission is hereby granted.

(The meeting ended at 8.10 pm)