Planning Committee

Minutes of the meeting held on Tuesday 21 June 2016 in the Town Hall, Royal Leamington Spa at 6.00 pm.

Present: Councillor Cooke (Chairman); Councillors Ashford, Boad, Mrs Bunker, Day, Edgington, Mrs Falp, Miss Grainger, Gill, Mrs Stevens and Weed.

Also Present: Committee Services Officer – Mrs Dury; Legal Advisor – Mrs Gutteridge; Development Manager – Mr Fisher; and Planning Officer – Mr Donofrio.

15. **Apologies and Substitutes**

The Chairman explained that the membership of the Committee listed on the agenda was incorrect. He then stated the correct membership, followed by a list of Councillors substituting at the meeting.

Councillor Edgington substituted for Councillor Mrs Hill, Councillor Mrs Falp substituted for Councillor Heath, Councillor Gill substituted for Councillor Naimo and Councillor Miss Grainger substituted for Councillor Morris.

16. **Declarations of Interest**

Minute Number 19 – W/16/0356 – Tollgate House, Banbury Road, Bishop's Tachbrook

Councillor Mrs Bunker declared an interest because she was Treasurer for the Guide Dogs for the Blind Association, Kenilworth Branch.

Minute Number 20 – W/16/0609 – 12-17 Talisman Square, Kenilworth

Councillor Mrs Bunker declared an interest because she was a Kenilworth Town Councillor and a member of the neighbouring gym.

Minute Number 21 – W/16-0646 – Land adjacent 10 Southfield Drive, Kenilworth

Councillor Mrs Bunker declared an interest because the application site was in her Ward.

Minute Number 23 – W/15/1871 – 39 High Street, Kenilworth

Councillors Ashford, Mrs Bunker, Cooke and Edgington declared an interest because the applicant, a Warwick District Councillor, was known to them.

Councillor Edgington declared an interest because he had chaired a meeting of the Conservation Area Forum when this application was discussed, but he did not make any judgement on the application.

17. **Site Visits**

The Committee did not make any site visits, although during the course of discussions of an application, Councillor Mrs Stevens stated that she had previously visited W/16/0861 – The Willows, Wolverton Road, Norton Lindsey when it had previously been considered by the Committee.

18. **Minutes**

The minutes of the meeting held on 24 May 2016 were unavailable and would be presented for approval at the next meeting in July.

19. **W/16/0356 – Tollgate House, Banbury Road, Bishop's Tachbrook**

The Committee considered an application from the Guide Dogs for the Blind Association for the replacement of Tollgate House and The Bungalow with six new dwellings, two of which would be affordable housing.

The application was presented to Committee because an objection had been received from Bishop's Tachbrook Parish Council.

The officer was of the opinion that, as there had been no changes in circumstances since the previous approval, the proposed development would not result in adverse impacts that would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF, or cause unacceptable harm to access. The proposal was therefore considered to comply with the policies listed.

An addendum circulated at the meeting outlined further comments from Bishop's Tachbrook Parish Council in support of its request for a footpath link between the site and the village which would involve the applicant providing a length of 230 metres of footpath which the Council considered to meet the relevant tests set out in planning legislation.

Councillor Deely, Chairman of Bishop's Tachbrook Parish Council, addressed the Council and explained why the Parish Council felt the scheme was unsustainable without a footpath link between the village and the site.

The Council's Legal Advisor explained that because the applicant did not own the land where the footpath link was required, it was unreasonable to impose this as a condition of planning consent. She also explained the three statutory conditions that needed to be met for a Section 106 contribution.

Members felt that the development was not large enough for it to be reasonable to impose an obligation on the developer to pay towards the costs of a footpath, and decided that a note to the developer who might wish to contribute to the provision of the footpath was sufficient.

Members also agreed that a Section 106 Agreement to provide affordable housing should form part of the terms of planning consent and gave delegated authority to officers to agree this with the developer, with the proviso that if agreement could not be reached by 1 July 2016, officers could also refuse the application.

Following consideration of the report, presentation, information contained in the addendum and the representations made at the meeting, it was proposed by Councillor Ashford and seconded by Councillor Miss Grainger that the application be granted.

The Committee therefore

Resolved that W/16/0356 be **granted** in accordance with the recommendations in the report, subject to completion of a satisfactory Section 106 agreement by 1 July 2016 to provide affordable housing. Should the terms of the Section 106 agreement not be sorted by 1 July 2016, officers were given delegated authority to refuse the application. Planning consent would contain a note to the applicant who may wish to contribute towards the provision of a footpath link to the site. Permission was subject to the following conditions:

(1) this permission is granted under the provisions of Article 3(1) of the Town and Country Planning (General Development Procedure) Order 1995, 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) the layout,
(b) scale
(c) appearance and,
(b) details of landscaping.

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

(2) in the case of the reserved matters specified above, application for approval, accompanied by all detailed drawings and particulars, must be made to the District Planning Authority not later than the expiration of three years beginning with the date of this permission. **Reason:** To comply with Section 92 of the Town and Country Planning Act 1990;

(3) the development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved. **Reason:** To comply with Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and

Compulsory Purchase Act 2004;

(4) the development hereby permitted shall be carried out strictly in accordance with the details shown on the submitted drawing 03 and specification contained therein, submitted on 15 April 2016, as amended by any reserved matters approval, unless first agreed otherwise in writing by the District Planning Authority. **Reason:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011;

(5) details of the means of disposal of storm water and foul sewage from the development shall be submitted to and approved by the District Planning Authority before the development hereby permitted is commenced and the development shall not be carried out other than in strict accordance with such approved details. **Reason:** To ensure satisfactory provision is made for the disposal of storm water and foul sewage and to satisfy Policy DP11 of the Warwick District Local Plan 1996-2011;

(6) prior to commencement of the development hereby approved, details of a porous surface treatment for the drive or where a non-porous surface treatment is proposed, details of the provision to be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwelling house, shall have been submitted to and approved by the District Planning Authority. The drive shall be constructed and surfaced, in full accordance with the approved details. **Reason:** To reduce surface water run-off and to ensure that the development does not increase the risk of flooding elsewhere, in accordance with Policy DP11 of the Warwick District Local Plan;

(7) a sample of the external facing materials to be used for the construction of the development hereby permitted, shall be submitted to and approved by the District Planning Authority before any constructional works are commenced. Development shall be carried out in accordance with the approved details. **Reason:** To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy DP1 of the Warwick

District Local Plan 1996-2011;

(8) prior to the commencement of development hereby permitted, a contamination survey of the whole of the site (including details of the timing and phasing of the remedial measures) shall be submitted to and approved in writing by the District Planning Authority. These works shall be carried out in strict accordance with such approved details and timescale. **Reason:** To protect the health and safety of future occupiers, and to satisfy the requirements of Policy DP9 of the Warwick District Local Plan 1996-2011;

(9) the development hereby permitted shall proceed only in strict accordance with the recommendations of a noise assessment, which shall be submitted in accordance with the principles of the NPPF. The noise assessment shall include results for LAeq, LA10, and LA90 noise descriptors, together with a calculated arithmetical average for the LAeq. The assessment will demonstrate by calculation that internal noise levels for the proposed residential property meet the 'Good' criteria set out in British Standard 8233 'Sound Insulation and Noise Reduction for Buildings' together with any mitigation measures that are required to achieve this. Prior to the first occupation of the building any necessary mitigation measures shall have been implemented in full accordance with the recommendations of the noise assessment and thereafter shall not be removed or altered in any way without the prior written approval of the local planning authority. **Reason:** To ensure no harm to future occupiers of the dwellings through noise and disturbance and to satisfy the requirements of Policies DP2 and DP9 of the Warwick District Local Plan 1996-2011;

(10) the applicant, or their agents or successors in title, shall secure the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority. **Reason:** To ensure any items of archaeological interest are adequately investigated, recorded and if necessary, protected, in order to satisfy the requirements of Policy DP4 of the Warwick District Local Plan

1996-2011;

(11) the development hereby permitted shall not commence until a detailed schedule of bat mitigation measures (to include timing of works, replacement roost details and monitoring) has been submitted to and approved in writing by the District Planning Authority. Such approved mitigation measures shall thereafter be implemented in full. **Reason:** To ensure that protected species are not harmed by the development;

(12) prior to the commencement of the development hereby permitted, the site to be surveyed for the presence of badgers immediately before any development takes place. If evidence of badgers is found at this time, a full badger survey should then be carried out by a badger expert. The results of any badger survey, and recommendations made relating to this to be kept confidential, and taken into account during development design and implementation. N.B. If evidence of badgers is found, Natural England should be consulted, as badgers and their setts are protected under the 1992 Badger's Act. **Reason:** To ensure appropriate measures are taken in relation to protected species;

(13) 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 Local Planning Authority. The development shall not then be occupied until the scheme has
been implemented to the satisfaction of the Local Planning Authority. **Reason:** In the interests of fire safety;

(14) the development hereby permitted shall not be commenced unless and until a scheme showing how either a). at least 10% of the predicted energy requirement of the development will be produced on or near to the site from renewable energy resources, or b). a scheme showing how at least 10% of the energy demand of the development and its CO^2 emissions would be reduced through the initial construction methods and materials has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first

occupied until all the works within the approved scheme have been completed and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturer's specifications. **Reason:** To ensure that adequate provision is made for the generation of energy from renewable energy resources or to achieve carbon savings in accordance with the provisions of Policy DP13 in the Warwick District Local Plan 1996-2011;

(15) the off street car parking area to serve the development hereby permitted shall be constructed, surfaced, laid out and available for use prior to the first occupation of the development hereby permitted. **Reason:** To ensure that adequate parking facilities are available, in accordance with the requirements of Policy DP8 and the Vehicle Parking Standards SPD of the Warwick District Local Plan 1996-2011; and

(16) notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking and re-enacting that Order with or without modification), no development shall be carried out which comes within Classes A, B and E within Part 1 of Schedule 2 of this Order. **Reason:** This site is within the rural countryside wherein the District Planning Authority wishes to retain control over future developments in accordance with Policy RAP2 in the Warwick District Local Plan 1996-2011.

20. **W/16/0609 – 12-17 Talisman Square, Kenilworth**

The Committee considered an application from Mukhtair Bains Limited for the change of use for the first floor units above 12-17 Talisman Square in Kenilworth from B1 (offices) to D2 (assembly and leisure) to open an Anytime Fitness gym operating on a 24 hours a day, seven days a week basis, including raising of roof height by 0.9 metres.

The application was presented to Committee because of the number of objections received including one from Kenilworth Town Council.

The officer was of the opinion that the proposed change of use was considered to comply with Local Plan Town Centre policies in principle and would not cause undue disturbance to neighbouring residential or commercial units which would be unacceptable and reason for refusal of the application. The town centre offered sufficient car parking to meet any increased parking requirements and the application should therefore be approved.

An addendum circulated at the meeting gave details of:

- an objection from Kenilworth Town Council which stated that the 24 hour operation was an alien feature to the town. Concerns were raised about noise and light and the Town Council agreed that use should be restricted to a gymnasium.
- opinion from Warwickshire County Council Highways which did not object to the application and considered that it was unlikely that the proposed change of use would result in detriment to the safety or operation of the highway network;
- support from an address in Courthouse Croft, and an objection from an address in Randall Road;
- a request from the neighbouring business that a contribution be made by the applicant to improve security to the entrance of Curves on the first floor of Talisman Square; and
- further comments from the Planning Officer in respect of employment matters and how many jobs would be provided. These also clarified that the proposed use of the site categorised as falling within use class D1 in the report, should be read as class D2.

The following people addressed the Committee:

- Councillor Illingworth, representing Kenilworth Town Council's views against the application; and
- Ms Long speaking on behalf of the franchise Anytime Fitness Gyms.

An amendment to Condition 4 in the report was agreed so that the noise mitigation scheme had to be approved by the local authority before commencement of development.

A suggestion by Councillor Mrs Bunker to add a note requesting that, as a gesture of goodwill, the applicant contribute to improving security to the entrance of Curves, was rejected.

Following consideration of the report, presentation, information contained in the addendum and the representations made at the meeting, it was proposed by Councillor Boad and seconded by Councillor Mrs Stevens that the application be granted with the amendment to Condition 4.

The Committee therefore

Resolved that W/16/0609 be **granted** in accordance with the recommendations in the report, 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 2737/Plan/02, and specification contained therein, submitted on 6th April 2016. **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) the development hereby permitted shall not be commenced unless and until a scheme showing how either a). at least 10% of the predicted energy requirement of the development will be produced on or near to the site from renewable energy resources, or b). a scheme showing how at least 10% of the energy demand of the development and its CO^2 emissions would be reduced through the initial construction methods and materials has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until all the works within the approved scheme have been completed and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturer's specifications. **Reason:** To ensure that adequate provision is made for the generation of energy from renewable energy resources or to achieve carbon savings in accordance with the provisions of Policy DP13 in the Warwick District Local Plan 1996-2011;

(4) the development hereby permitted shall not commence until a mitigation scheme has been provided to and approved by the local planning authority that details the structural and managerial measures to be implemented that minimise noise and vibration transmission to nearby sensitive commercial and residential receptors. The approved scheme shall be implemented in full and shall not be altered in any way without the express written approval from the local planning authority. Once completed, the applicant shall provide an updated noise and vibration assessment to the local planning authority for approval which demonstrates that the mitigation measures have been installed in accordance with the approved details. **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;

(5) the development and change of use hereby permitted shall not commence until details of the internal lighting have been submitted to and approved by the Local Planning Authority which ensures that the internal lighting shall not cause a nuisance or a disturbance to the occupiers of nearby properties. The applicant shall have regard to the recommended lighting levels contained within the '*Guidance notes for the reduction of obtrusive light*' produced by the Institution of Lighting Professionals (2011). The internal lighting shall be installed and thereafter maintained in accordance with the approved details. **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;

(6) if an air source heat pump is chosen as the method to comply with the requirement for renewable energy, noise arising from the air source heat pump(s) permitted, when measured one metre from the facade 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) 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. The applicant shall also provide an updated noise impact assessment to demonstrate that the proposed plant and

equipment will comply with this criteria. **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;

(8) the premises shall only be used as a gymnasium and shall not be used for any other purpose, including any other purpose within Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification. **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; and

(9) all external facing materials for the development hereby permitted shall be of the same type, texture and colour as those of the existing building. **Reason:** To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy DP1 of the Warwick District Local Plan 1996-2011.

21. **W/16/0646 – Land adjacent 10 Southfield Drive, Kenilworth**

The Committee considered an application from Mr and Mrs Gudgeon for the erection of a detached dwelling on land adjacent to 10 Southfield Drive. This was a resubmission of applications W/15/0044 and W/16/0023.

The application was presented to Committee because an objection from Kenilworth Town Council had been received.

The officer was of the opinion that the principle, design, siting and impact on neighbouring properties of the proposed house were considered acceptable.

The reduction in the floor area of the property, along with its resiting and redesign, had increased the useable amenity space to the north east and it was considered that the previous reasons for refusal had been overcome, the proposed house would provide adequate living conditions for the occupiers of the proposed dwelling and would not result in material harm to the living conditions of the occupiers of the existing dwelling. Therefore, the proposal was in accordance with Policies DP1, DP2, DP3 of the WDLP and Policies BE1, BE3, NE2 & NE4 of the DNLP.

The following people addressed the Committee:

- Mrs Gamelen, a local resident, who spoke against the application;
- Mr Baily who spoke on behalf of the applicant; and

- Councillor Illingworth, speaking against the application on behalf of the Ward Member, Councillor Shilton and also representing the views of Kenilworth Town Council.

Following consideration of the report, presentation, and the representations made at the meeting, it was proposed by Councillor Miss Grainger and seconded by Councillor Edgington that the application be granted.

The Committee therefore

Resolved that W/16/0646 be **granted** in accordance with the recommendations in the report, 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 no. 5112/02 Rev E; 5112/03 Rev E & 5112/04 Rev E, and specification contained therein, submitted on 8th APRIL 2016. **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 or other operations (including demolition, site clearance or other preparatory works) shall commence unless the tree protection measures identified in the approved application documentation tilted ' Arboricultural Implication Study by Higginson Associates, submitted 8th April 2016 on have been put into place in full accordance with the approved details and thereafter shall remain in place during any such construction work unless otherwise agreed in writing by the local planning authority. In addition 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 protected tree(s); no equipment, machinery or structure shall be attached to or supported by a protected 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

carried out in such a way as to cause damage or injury to the tree(s) by interference with their root structure and that 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:** 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;

(4) the development shall be carried out only in full accordance with sample details of the 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;

(5) the development hereby permitted shall not be commenced unless and until a scheme showing how either a). at least 10% of the predicted energy requirement of the development will be produced on or near to the site from renewable energy resources, or b). a scheme showing how at least 10% of the energy demand of the development and its CO^2 emissions would be reduced through the initial construction methods and materials has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until all the works within the approved scheme have been completed and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturer's specifications. **Reason:** To ensure that adequate provision is made for the generation of energy from renewable energy resources or to achieve carbon savings in accordance with the provisions of Policy DP13 in the Warwick District Local Plan 1996-2011;

(6) the development hereby permitted shall only be undertaken in strict accordance with details of both hard and soft landscaping works which 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, 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 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;

(7) notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any order revoking and re-enacting that Order with or without modification), no development shall take place under Classes A, B & E within the curtilage of the dwelling house hereby permitted. **Reason:** That having regard to the design, layout and general nature of the proposed development it is important to ensure that no further development is carried out which would detract from the appearance of the area; affect the TPO trees and the amenity of the occupiers of the proposed house. Therefore, no additional development is to be carried out without the permission of the local planning authority in accordance with Policies DP1, DP2 & DP3 of the Warwick District Local Plan 1996-2011; and

(8) if an air source heat pump is chosen as the method to comply with the requirement for

renewable energy, noise arising from the air source heat pump(s) permitted, when measured one metre from the facade 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.

22. **W/16/0861 – The Willows, Wolverton Road, Norton Lindsey**

The Committee considered an application from Mr and Mrs Boddington for the proposed removal of the existing porch and bow window, removal of existing roof structure and formation of a new pitched roof, with an increase in roof height of 0.85 metres.

The application was presented to Committee because Norton Lindsey Parish Council had supported the application, and officers were recommending refusal.

The officer was of the opinion that the proposal had not been significantly altered in design, bulk or mass from the previous application which was considered to constitute disproportionate additions and inappropriate development in the Green Belt, harmful by definition and by harm to openness. For this reason, the same reason for refusal applied. The proposal was contrary to Policy RAP2 and the NPPF and no very special circumstances were considered to exist which outweighed the harm identified.

An addendum circulated at the meeting gave details of why the Agent believed the proposal was now acceptable and comments from Norton Lindsey Parish Council in favour of the application. It was felt that planning policy in respect of Green Belt development was being applied in an inconsistent manner.

The following people addressed the Committee:

- Mr Baily who spoke on behalf of the Applicant; and
- Councillor Rhead, Ward Member, who also spoke in support of the application. He was disappointed that a site visit had not been made by the Committee and felt that there had not been any dialogue between officers and the applicant.

A motion to grant the application was defeated following discussion amongst Members and advice from officers.

Members felt that planning principles had not been followed and the proposals would occupy greater floor space. The design was considered "contrived", with the inclusion of a void space, which had once been a room. The Development Manager advised that the proposals were a 200% increase in size and was therefore contrary to national and local policy, and if granted, could send a signal to other developers that a 200% increase in size was acceptable.

Following consideration of the report, presentation, information contained in the addendum and the representations made at the meeting, it was proposed by Councillor Cooke and seconded by Councillor Boad that the application be refused.

The Committee therefore

Resolved that W/16/0861 be **refused** for the following reason:

(1) the proposed development by reason of its scale, bulk and massing comprises a disproportionate addition to the dwelling and inappropriate development within the Green Belt which is harmful by definition and by reason of harm to openness. No very special circumstances are considered to exist which outweigh the harm identified.

The proposed development is therefore contrary to the National Planning Policy Framework and to Policy RAP2 of the Warwick District Local Plan 1996 - 2011.

23. **W/15/1871 – 39 High Street, Kenilworth**

The Committee considered an application from Mr and Mrs Whiting for the demolition of the existing dwelling in a conservation area and the erection of a replacement dwelling and extension to the rear to form a single dwelling to Passivhaus standards.

The application was presented to Committee because one of the applicants was a Warwick District Councillor.

The officer was of the opinion that the demolition of a non-listed building and its replacement with extensions was considered to be acceptable and would not result in any significant impact upon the street scene, setting of the conservation area and other heritage assets, neighbouring amenity or highway safety in accordance with the policies listed.

An addendum circulated at the meeting stated that the previous concerns raised by the Conservation Area Forum regarding the size; shape and materials used for the proposed building had been addressed, and views from the Pound and Abbey Fields had been protected. The amended scheme was supported as being a carefully considered design.

Warwickshire County Council Archaeology had no objection to the proposals, subject to a condition to require an appropriate scheme of archaeological work including an archaeology strategy. The Council had also received additional comments from a local resident, reiterating comments that had already been identified within the officer report.

The following people addressed the Committee:

- Mr Muir who objected to the proposals; and
- Mrs Whiting, one of the applicants.

Mr Muir had raised concerns about a public right of way that ran inside the grounds of the site. This was not a proven right of way but there was anecdotal evidence that it had been used as a right of way for numerous years. Members raised concerns that once the development took place, people might not realise it was a right of way, but officers advised that if it was a proven right of way, Warwickshire County Council would ensure that it was signposted as such.

Following consideration of the report, presentation, information contained in the addendum and the representations made at the meeting, it was proposed by Councillor Ashford and seconded by Councillor Mrs Falp that the application be granted.

The Committee therefore

Resolved that W/15/1871 be **granted** in accordance with the recommendations in the report, 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) PL03B, PL04A, PL05A, PL06A and specification contained therein, submitted on 10/11/15 and 07/04/16. **Reason:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies DP1, DAP8 and DP2 of the Warwick District Local Plan 1996-2011;

(3) before development hereby approved commences details must be submitted to and approved in writing by the Local Planning Authority showing: (a) elevational brick and sandstone materials and roof tiles for the replacement element; (b) 1:10 drawings of garage doors; (c) rain water goods, flue and

lantern lights to be finished in black painted metal. Thereafter the development shall be carried out in accordance with the approved details. **Reason:** To ensure an appropriate character and appearance of the development in accordance with Policies DP1 and DAP8 of the Warwick District Local Plan 1996-2011;

(4) no development (including demolition) shall commence unless and until a survey for the presence of bats has been carried out by a qualified surveyor, and has been submitted to and approved in writing by the local planning authority. Should the presence of bats be found then no demolition shall take place until full details of measures for bat migration and conservation have been submitted to and approved by the local planning authority. These measures should include: a) inspection of existing buildings on site within one month prior to their demolition to determine presence or absence of roosting or hibernating bats; b) no building containing bats shall be demolished until bats have been safely excluded using measures as have been previously submitted to and approved in writing by the local planning authority; c) provision of a new bat roost/hibernacula constructed to a design and in a location previously approved in writing by the local planning authority; d) provision of new bat roost/hibernacula within new construction. The works shall be implemented in strict accordance with the approved details and timing of works, unless otherwise approved in writing by the local planning authority and once undertaken the works shall not be removed or altered in any way without the prior written approval of the local planning authority. **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;

(5) the development hereby permitted (including ground clearance works) shall not commence until a protected and notable species method statement for reptiles, amphibians, nesting birds and hedgehog (to include timing of works, supervision of vegetation clearance and reasonable avoidance measures) has been submitted to and approved in writing by the Local Planning Authority. Such approved measures 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;

(6) the development hereby permitted shall not commence unless and until a scheme has been submitted to and approved in writing by the Local Planning Authority detailing how the southern wall to The Pound will be stabilised or reconstructed with deeper foundations, as necessary, to accommodate the proposed development. Such approved measures shall thereafter be implemented in full. **Reason:** To ensure that the development does not compromise the structural stability of The Pound retaining wall in the interests of health and safety and Policy DP2 of the Warwick District Local Plan 1996-2011;

(7) the development hereby permitted shall not be first occupied unless and until the fabric first scheme submitted as part of the application has been wholly implemented to meet (or exceed) a reduction of at least 10% of the CO^2 emissions through the initial construction methods proposed. **Reason:** To ensure that adequate provision is made for the generation of energy from renewable energy resources or to achieve carbon savings in accordance with the provisions of Policy DP13 in the Warwick District Local Plan 1996-2011; and

(8) all window and door frames within the replacement dwelling element of the scheme shall be constructed in timber and shall be painted and not stained. **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.

The Chairman announced a 15 minute recess at 8.32pm.

24. **W/16/0527 – Cafeteria, Victoria Park, Archery Road, Royal Leamington Spa**

The Committee considered an application from Warwick District Council for the installation of a skate park.

The application was presented to Committee because Warwick District Council was the applicant.

The Legal Advisor advised that there was no need for Members to declare an interest because the applicant was the Council.

The officer was of the opinion that the nature and scale of the development would not cause unacceptable harm to the character or setting of the Conservation Area, the Historic Park and Garden status of Victoria Park or neighbours' amenity. The proposal was therefore considered to comply with the policies listed.

An addendum circulated at the meeting stated that Warwickshire County Council Ecology did not object to the application. Protected species notes had been suggested. One further neutral comment had been received from a local resident regarding notification process and one objection from a local resident had been received raising concerns that the skate park would be located near to the children's area and that teenage skaters might appreciate being away from young children.

The Committee were able to confirm that the boulders/stones already in the park would be retained in the park.

Following consideration of the report, presentation, and the information contained in the addendum, it was proposed by Councillor Boad and seconded by Councillor Weed that the application be granted.

The Committee therefore

Resolved that W/16/0527 be **granted** in accordance with the recommendations in the report, 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) 042-P402 A, 042-S301 and specification contained therein, submitted on 21/03/16. **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; and

(3) no development or other operations (including demolition, site clearance or other preparatory works) shall commence unless the tree protection measures identified in the approved plan Drg No.042-P402 Rev A have been put into place in full accordance with British Standard BS5837 – 2012 'Trees in Relation to

Design, Demolition & Construction'. Tree protection measures shall thereafter remain in place during construction work. **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.

25. **W/16/0603 – Land East of Radford Semele, North of Southam Road, Radford Semele**

The Committee considered an application from Bovis Homes West Midlands Region for a variation of Condition 1 imposed under planning permission W/15/1293 to remove reference to engineering plan RADF-5-500 to allow changes to site levels to compensate for two high pressure water mains that cross the site.

The application was presented to Committee because of the amount of objections received; however, Councillor Doody has also requested that it was presented to Committee.

The officer was of the opinion that the proposed changes were considered to be acceptable and the scheme would remain largely the same as previously approved under W/15/1293. The development as a whole was considered to provide a high quality residential environment in accordance with the garden suburbs principles, including an appropriate mix of market and affordable housing and acceptable dwelling house and layout design solutions, including public open space and complied with the policies listed.

An addendum circulated at the meeting stated that one further objection had been received raising issues of visibility/prominence and asking that Warwick District Council stand up to developers and not let them get their way. Further comments had also been received from a local resident raising various concerns.

The Planning Officer informed Members that in respect of the further objection received, this information had all been made clear at the application stage.

Following consideration of the report, presentation, and the information contained in the addendum, it was proposed by Councillor Ashford and seconded by Councillor Boad that the application be granted.

The Committee therefore

Resolved that W/16/0603 be **granted** in accordance with the recommendations in the report, subject to the following conditions:

(1) the development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawing(s) HTPD_AGD2-1, HTPD_AGS2-1, HTPD_AGS2-2, HTPD_AGT2-1,

HTPD_AGT2-2, HTPD_S351 TYPE_S3, HTPD_S461_TYPES4, HTPD_S241_TYPE S2 REV A, HTPD_2B BUNG TYPE A, HTPD_C200B_S5 REV A, HTPD_C3003 TYPE D 1-2 REV A, HTPD_C3003 TYPE D 2-2 REV A, HTPD_P301VT TYPE B REV A, HTPD_P306 TYPE C REV A, HTPD_P404 TYPE E, HTPD_P501VT TYPE F - RENDER, HTPD_P506 TYPE G 1-2, HTPD_P506 TYPE G 2-2, HTPD_S1 REV A, RADF-02 500, RADF-02-100D, RADF-02-200C, RADF-03-080, RADF-02-400-B, Radford Semele LEAP and specification contained therein, submitted under W/15/1293 on 13th August 2015 and RADF-5-1001, RADF-05-2000 submitted on 05/04/16. **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;

(2) notwithstanding the details on the approved plans the fence to the western site boundary shall be 2 metres high and shall have been erected prior to the first occupation of the dwellings (plots 40 and 49-50). The fence shall not then be removed without the prior written approval of the Local Planning Authority. **Reason:** To ensure a satisfactory relationship between the proposed development and adjacent land and buildings in the interests of amenity in accordance with Policies DP1 & DP2 of the Warwick District Local Plan 1996-2011;

(3) the development hereby permitted shall not be occupied unless and until the car parking and manoeuvring areas indicated on the approved drawings have been provided and thereafter those areas shall be kept marked out and available for such use at all times. **Reason:** To ensure adequate off-street car parking and servicing facilities in the interests of both highway safety and visual amenity in accordance with Policies DP1, DP2 & DP8 of the Warwick District Local Plan 1996-2011;

(4) the landscaping scheme submitted as part of the application hereby permitted shall be completed, in all respects, not later than the first planting season following the completion of each phase of the development hereby permitted. Any trees removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced by trees of similar size and species to

those originally required to be planted. **Reason:** To protect and enhance the amenities of the area, and to satisfy the requirements of Policies DP1 and DP3 of the Warwick District Local Plan 1996-2011;

(5) notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modification) no windows or openings, including dormer windows (apart from any shown on the approved drawings) shall be formed in the rear roof slopes of Plots 20, 40 and 49-50 hereby approved without the written approval of the local planning authority and if any additional windows are subsequently approved they shall only be glazed or re-glazed in accordance with such approved details and any opening part of any window shall be at least 1.7m above the floor of any room in which the window is installed. **Reason:** In the interests of the amenities of the occupiers of nearby properties in accordance with Policies DP1 & DP2 of the Warwick District Local Plan 1996-2011; and

(6) notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking and re-enacting that Order with or without modification), no development shall be carried out on Plot 40, which comes within Class A of Part 1 of Schedule 2 of this Order, without the prior permission of the Local Planning Authority. **Reason:** To retain control over future development of this property in the interests of residential amenity, given its close relationship with the adjoining property Amberwood and to help meet the objectives of Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.

26. **W/16/0636 – Hamelin, Coventry Road, Baginton**

The Committee considered an application from Mr Kamaci for the erection of a single storey rear extension.

The application was presented to Committee because an objection had been received from Baginton Parish Council.

The officer was of the opinion that the proposal, which sought to enhance the level of service provision within the village, was considered to be

acceptable in principle and whilst the proposed extension was inappropriate in Green Belt terms, there were considered to be very special circumstances sufficient to outweigh that harm.

It was considered that the previous reason for refusal had been overcome by way of the revisions proposed as part of this revised scheme such that there was now no objection to the proposal.

Whilst Members recognised that the proposals did not fall within policy terms, they agreed with the officer's recommendation that there were very special circumstances sufficient to outweigh harm to the Green Belt.

Following consideration of the report and presentation, it was proposed by Councillor Miss Grainger and seconded by Councillor Ashford that the application be granted.

The Committee therefore

Resolved that W/16/0636 be **granted** in accordance with the recommendations in the report, 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 No.5078/10, and specification contained therein, submitted on 2nd February 2016. **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) all external facing materials for the development hereby permitted shall be of the same type, texture and colour as those of the existing building. **Reason:** To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy DP1 of the Warwick District Local Plan 1996-2011;

(4) the development hereby permitted shall not be commenced unless and until a scheme showing how either a). at least 10% of the predicted energy requirement of the development will be produced on or near to the site from renewable energy resources, or b). a scheme showing how at least 10% of the energy demand of the

development and its CO^2 emissions would be reduced through the initial construction methods and materials has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until all the works within the approved scheme have been completed and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturer's specifications. **Reason:** To ensure that adequate provision is made for the generation of energy from renewable energy resources or to achieve carbon savings in accordance with the provisions of Policy DP13 in the Warwick District Local Plan 1996-2011;

(5) the development hereby permitted shall not commence unless and until two weeks' notice in writing of the start of works has been given to a suitably qualified bat worker appointed by the applicant to supervise all destructive works to the roof. All roofing material is to be removed carefully by hand. Should bats be found during this operation, then work must cease immediately while Natural England are consulted for advice and no further works shall be undertaken at the site unless and until full details of measures for bat migration and conservation have been submitted to and approved in writing by the local planning authority. The development shall then proceed in full accordance with the approved details and any required mitigation works shall be complete in full accordance with the approved details and shall not be removed or altered in any way without the prior written approval of the local planning authority. 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; and

(6) if an air source heat pump is chosen as the method to comply with the requirement for renewable energy, noise arising from the air source heat pump(s) permitted, when

measured one metre from the facade 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.

27. **Certificate of Appropriate Alternative Development: Land at 3 Hodgetts Lane, Burton Green**

The Committee considered applications for Certificates of Appropriate Alternative Development, under the Land Compensation Act 1961, Section 17 as substituted by Section 63 of the Planning and Compensation Act 1991 from Mr and Mrs Cook for the demolition of the existing dwelling and the erection of a pair of semi-detached dwellings; and the demolition of the existing dwelling and its replacement with two detached properties.

Mrs and Mrs Cook's property had been compulsorily purchased by HS2 Limited and legislation had been enacted to facilitate the delivery of the HS2 proposal and in particular to assist homeowners in realising an appropriate financial return upon compulsory purchase of a property by in this case HS2 Limited.

Officers explained that a Certificate of Alternative Appropriate Development did not comprise a planning permission and did not permit development to be undertaken. Its purpose was to identify development which was considered to be acceptable and likely to assist in the valuation (for the purpose of compulsory purchase) of the property in question.

Where a Certificate was granted, it related to the principle of a proposal only and for that reason, the legislation did not require applicants to submit detailed plans. There was no requirement for the Local Planning Authority to undertake any of the usual consultation or publicity.

The officer was of the opinion that it was considered that were planning applications submitted for the two proposals the subject of this report, schemes could be brought forward which would be acceptable in planning terms and in respect of which planning permission would therefore be granted. Planning Committee was therefore recommended to agree to the issue of the Certificates.

Following consideration of the report and presentation, it was proposed by Councillor Mrs Falp and seconded by Councillor Ashford that the Committee would certify that planning permission would be granted.

The Committee therefore

Resolved that it is certified that planning permission would be granted in respect of the proposals. Should a planning application be submitted in respect of this proposal, planning conditions would be imposed in respect of:

(1) the timescale for the commencement of development;

(2) The provision of further details of the design and layout, etc. of the proposal including details of materials where appropriate;

(3) Appropriate ecological survey work and remedial measures;

(4) The provision of an appropriate level of renewable energy/CO2 emissions; and

(5) The removal of permitted development rights relating to extensions and outbuildings.

28. **Planning Appeals Report**

Members received a report from officers outlining the existing enforcement matters and appeals currently taking place.

Resolved that the report be noted.

29. **Annual Review of Warwick District Council Conservation Advisory Forum (CAF)**

This item was withdrawn from the agenda prior to the meeting.

(The meeting ended at 9.26pm)