

# Late Representations

## Planning Committee 28 October 2021

Item No. 7	<p><b>Application No. - OUT/2021/0104</b></p> <p>Description of Development - Outline planning application for the demolition of 69 Siddeley Avenue and two-storey former party venue building, and erection of residential development (Use Class C3), including affordable retirement units (Use Class C3), open space provision and associated infrastructure, with all matters reserved except access</p> <p><b>Site Address -</b> Siddeley Avenue</p> <p><b>Recommendation</b>          Planning committee are recommended to delegate the grant of planning permission to the Strategic Lead for Planning subject to conditions and subject to the completion of a S106 Agreement.</p> <p><b>Consultation</b>          A 300 signature 'petition' has been submitted objecting to the proposal. Regretfully, the City Council will not consider petitions hosted on other websites as we are unable to verify the signatures.</p> <p>A PowerPoint has been submitted, which outlines concerns on Air Quality issues.</p> <ul style="list-style-type: none"> <li>• In cities 1 in 19 deaths are linked to NO2 poisoning.</li> <li>• UK has highest respiratory illnesses anywhere in the EU.</li> <li>• BBC: <i>"Our children are suffocating! In the UK more children suffer from respiratory conditions than anywhere else in Europe!"</i></li> <li>• UNICEF claims: "NO2 poisoning is a public health emergency....71% of UK children in cities breathe unsafe levels of air pollution."</li> <li>• 1 in 3 babies breathe unsafe levels of carbon dioxide.</li> </ul> <p>Six photographs have been submitted which show the site.</p> <p>One further objection email has raising the following points: -</p> <ul style="list-style-type: none"> <li>• Affordable housing is for retirement flats/homes of 1 and 2 bed. However, we need 3 and 4 bedroomed social/affordable housing and larger therefore the application does not accord with mix of housing and affordable housing policies.</li> <li>• There area is not well served by public transport with the nearest bus stop on Aldermoor Lane, some considerable distance from the furthest house proposed on the site. Therefore, it will lead to more cars;</li> <li>• 25% less than required in Appendix 5 leading to insufficient parking, where will the extra cars park? Has the traffic modelling taken into account the extra 400-450 cars to it?</li> <li>• The additional cars will create Air Quality issues;</li> <li>• Disagree with an unelected officer issuing the decision and expects Planning Committee to call in all of the Reserved Matters.</li> </ul>
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One further letter of support has been submitted stating the following: -

Our partnership with Wellington Arch means that for the first time we have an opportunity to build a secure future for our club at Sphinx Drive. Working together with landowners Wellington Arch, and with Coventry City Council's planning team, we have produced plans to unlock the regeneration of derelict private land adjacent to our club to deliver a new neighbourhood including family homes, socially-rented retirement accommodation and extensive areas of landscaped open space and facilities for play. If approved, the partnership agreement will see us gifted the freehold of our historic home – securing our position in the heart of the community for generations to come and generating significant investment into our facilities.

### **Appraisal**

#### Affordable Housing

Policy H6 states 25% of the development is required to be affordable housing, the 54 retirement units for affordable rent fall short by three units in order to achieve a policy-compliant scheme of 25% affordable. Therefore, a monetary contribution and/or the identification of three units will be required. This will be secured via a S106 agreement and at the Reserved Matters stage for layout and scale.

#### Ecology

The application was supported by a Biodiversity Impact Assessment (BIA), it showed a loss of 2.31 units requiring a financial contribution of £109,840. The City Council's Ecologist disputed the number of units to be lost and recalculated the BIA which showed a loss of 6.72 units requiring a contribution of £294,223.

The 6.72-unit loss should be accepted as the limit that any development can incur. A future detailed landscape plan could not exceed this figure, but the BIA would be revised, and offset agreed accordingly. Depending on the plan the figure might be reduced.

The applicant has agreed to pay the higher figure put forward by the Ecologist, this will be secured via S106.

### **Land ownership issues**

A number of concerns have been raised with regards to the proposed access road and the impact on covenants and right of access, these have been summarised as below.

However, the starting point is, the grant of planning permission does not overcome private law restrictions on development; and the principle remains that private law interest such as restrictive covenants are not material considerations for the purposes of determining planning applications. The City Council as local planning authority has a statutory obligation to determine all applications submitted in accordance with the development plan and other material considerations (Section 70 TCPA 1990 provides that a local planning authority, when determining an application '*should have regard to the provisions for the development plan in so far as material to the application and to other material considerations*'). Covenants and private law restrictions are not material considerations and therefore to take them into account when determining a planning application would be ultra vires, i.e. outside the legislative scope of the local planning authority; which could result in the

decision (if planning permission were to be refused) being challenge at appeal to the Secretary of State or in the Courts by way of Judicial Review.

Irrespective of what legal action may be taken, the City Council as local planning authority, has a statutory obligation to determine the application submitted and grant planning permission, if the proposal is considered acceptable, even if ultimately the applicant may be prevented from undertaking the development by private law restrictions.

1. The deeds of the residents who share this access way says that no businesses are allowed to use this access way. It is for residential use ONLY. By change of use this proposal will be violating these deeds?
  - A. The reference to "this access way" is to the continuation of Armstrong Avenue the right reserved to Wellington Arch under Title Number WM139512 which is not restricted to any particular use. The right is included in a Conveyance dated 27th June 1929 as follows:  
*" full right and liberty at all times hereafter and for all purposes to pass and repass with or without horses cattle motor cars and other vehicles and whether the adjoining property of the Vendors on the East side of the property hereby conveyed shall remain in its present state of use and occupation or shall be developed by building or otherwise over and along the proposed new roads "A" and "B" to be constructed by the Purchaser as hereinafter mentioned across the property hereby conveyed where shown on the said plan and thereon coloured brown and marked "Proposed Road A" and "Proposed Road B" respectively and also across and over the strips of land forming continuations of Proposed Road A and Proposed Road B and hatched blue and yellow upon the said plan with full right and liberty for the Vendors if they be so minded to construct roadways across and over such strips of land or either of them"*  
  
The continuation of Armstrong Avenue is the land hatched yellow. Therefore, If the reference is to "this access way" it is to the strip of land to the rear of the houses fronting Siddeley Avenue and therefore will not be impacted on by the proposed development.
2. During the course of the carrying out of the works to the Shared Accessway the developer will commit to maintaining temporary access arrangements for the Residential Plot Owners. What will this look like in detail?
  - A. The applicant owns no.69 Siddeley Avenue and is proposed to be demolished to facilitate the new access road and therefore will have flexibility in providing a temporary access over this land whilst the road is resurfaced. If permission is approved and if necessary one half of the road can be surfaced whilst the other half is used for access. The temporary access arrangement will be agreed with the Council in accordance with the details to be submitted in respect of the Siddeley

Avenue access required to discharge Condition No.6 and as part of a Construction Management Plan, required to discharge Condition No.19.

3. The Shared Accessway will be constructed and improved to an adoptable standard with the intention being that the highways authority adopt the Shared Accessway. What will happen if the Shared Accessway is not adopted?
  - A. The developer has confirmed that the shared accessway will be constructed and completed to an adoptable standard which means it can be adopted by highway authorities so that they become maintainable at public expense, pursuant to the 1980 Highways Act (as amended) (the 1980 Act).

Agreements made under Section 38 of the 1980 Act are the most common method of achieving road adoption. It is mostly used where roads are planned by developers on new residential or commercial developments. The agreement should clear the way to a seamless process to achieve road adoption. The agreement will only be finalised once all highway related planning requirements are in place

The submission of full construction and engineering details will be required in discharging Condition 6, which is to be imposed in the event of planning permission being granted, and for the City Council's Highways team to approve such details prior to implementation. Notwithstanding this, and in a hypothetical situation where the shared accessway was not adopted by Coventry City Council, the liability for maintenance of the road would be dealt with by way of a covenant within the title deeds for each respective new property (the effect of which would be to spread the cost of maintenance).

#### **Additional Conditions**

To be inserted after condition no.11, the new condition no.12

The following information shall be submitted with layout reserved matters application:-

- A scheme of noise mitigation in accordance with British Standard 8233: 2014 (Guidance on sound insulation and noise reduction for buildings) to ensure residents are protected from potential noise disturbance associated with the operation of the Sphinx Club and adjacent AGP pitch, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied unless and until all the works within the approved scheme have been completed in strict accordance with the approved details and thereafter the works shall be retained at all times and shall not be removed or altered in any way.

**To safeguard the amenities of the adjoining occupiers of the development in accordance with Policy DE1 of the Coventry Local Plan 2016.**

**Amended Conditions**  
Condition No.5

The development hereby permitted shall be carried out in accordance with the following approved plans:

- Amended Site Location Plan - Drawing No.PL001 Rev C, submitted 14<sup>th</sup> September 2021

**For the avoidance of doubt and in the interests of proper planning**

To include the following access drawings: -

- Drawing - Site Access Options Siddeley Ave/Armstrong Ave General Arrangement - Drawing No.SK011 P02, submitted 21<sup>st</sup> April 2021;
- Drawing - Site Access Options Siddeley Ave/Armstrong Ave Accesses for No.73 & No.75 - Drawing No.SK010 P2, submitted 21<sup>st</sup> April 2021;

Condition No.13

The following information shall be adhered to within the layout and scale reserved matters application:

- No more than 75% of the open market residential units shall be occupied until the 54 affordable retirement units for social rent have been provided in accordance with a scheme first approved by the Local Planning Authority in writing detailing the location and size of the affordable retirement units, of which 40 shall be one-bedroom units and 12 shall be two-bedroom units.

***Reason:*** To ensure that the proposed development provides the affordable housing provision of 25% in accordance with Policy H6 of the Coventry Local Plan 2016 and the advice contained within the NPPF.

Amended to: -

The following information shall be adhered to within the layout and scale reserved matters application:

- No more than 75% of the open market residential units shall be occupied until the 54 affordable retirement units for social rent and provision has been made for the shortfall of 3no units have been provided in accordance with a scheme first approved by the Local Planning Authority in writing detailing the location and size of the affordable retirement units, of which at least 40no. shall be one-bedroom units and at least 14no. shall be two-bedroom units.

***Reason:*** To ensure that the proposed development provides the affordable housing provision of 25% in accordance with Policy H6 of the Coventry Local Plan 2016 and the advice contained within the NPPF.

Condition No.21

The following information shall be submitted with any reserved matters application:

- a) a scheme for the provision of surface water drainage, fully incorporating open air suds with particular emphasis on attenuation techniques. surface water attenuation shall be located outside the flood plain. there must be consideration of features such as green roofs, rain gardens and swales, for the management of surface water peak and total flows, biodiversity and water filtering.

- b) a scheme for the provision of surface water drainage, incorporating suds attenuation techniques.
- c) a scheme for the provision of surface water drainage incorporating infiltration suds or attenuation techniques. there must also be consideration of features such as green roof technology for the management of surface water peak and total flows, biodiversity and water filtering.
- d) a scheme for the provision of surface water drainage, incorporating suds attenuation techniques. on the basis that this site represents a risk of contamination, detailed plans of the pollution control measures must be included;
- e) details of discharge rates that shall not exceed [5l/s or other agreed value];
- f) an intrusive ground investigation report to establish the depth and type of strata, including percolation results in accordance with bre 365 and the presence and risk associated with migrant contaminants and provide evidence of existing groundwater levels and seasonal variation;
- g) evidence that receiving water bodies or sewers are capable of accepting attenuated flows and that this will not exacerbate flood risk on or off site;
- h) a detailed strategy for the long-term maintenance of the suds and other surface water drainage systems on site.

The drainage details shall be installed in full accordance with the approved documentation prior to occupation of the development and thereafter shall be maintained and shall not be removed or altered in any way.

**Reason:** *To ensure that adequate drainage facilities are available for the satisfactory and proper development of the site in accordance with policies EM1, EM4 and EM5 of the Coventry Local Plan 2016 and Coventry City Council's adopted Supplementary Planning Document for 'Delivering a More Sustainable City'.*

Amended to: -

The following information shall be submitted with any reserved matters application:

- i) a scheme for the provision of surface water drainage, fully incorporating open air suds with particular emphasis on attenuation techniques. surface water attenuation shall be located outside the flood plain. there must be consideration of features such as green roofs, rain gardens and swales, for the management of surface water peak and total flows, biodiversity and water filtering.
- j) a scheme for the provision of surface water drainage incorporating infiltration suds or attenuation techniques. there must also be consideration of features such as green roof technology for the management of surface water peak and total flows, biodiversity and water filtering.
- k) a scheme for the provision of surface water drainage, incorporating suds attenuation techniques. on the basis that this site represents a risk of contamination, detailed plans of the pollution control measures must be included;
- l) details of discharge rates that shall not exceed 14.94 l/s;

	<p>m) an intrusive ground investigation report to establish the depth and type of strata, including percolation results in accordance with bre 365 and the presence and risk associated with migrant contaminants and provide evidence of existing groundwater levels and seasonal variation;</p> <p>n) evidence that receiving water bodies or sewers are capable of accepting attenuated flows and that this will not exacerbate floor risk on or off site;</p> <p>o) a detailed strategy for the long-term maintenance of the suds and other surface water drainage systems on site.</p> <p>The drainage details shall be installed in full accordance with the approved documentation prior to occupation of the development and thereafter shall be maintained and shall not be removed or altered in any way.</p> <p><b>Reason:</b> <i>To ensure that adequate drainage facilities are available for the satisfactory and proper development of the site in accordance with policies EM1, EM4 and EM5 of the Coventry Local Plan 2016 and Coventry City Council's adopted Supplementary Planning Document for 'Delivering a More Sustainable City'.</i></p>
<p>Item No. 9</p>	<p><b>Application No. - FUL/2021/2347</b></p> <p>Description of Development - Change of use from dwellinghouse (Class C3) to a Children's Home (Class C2 - maximum 4 children)</p> <p><b>Site Address</b> - 12 Parrotts Grove</p> <p><b>Additional/Amended Conditions</b></p> <p>Additional Condition 5 as below:</p> <p>Prior to their incorporation into the development hereby permitted, a scheme to improve security of the property Including external CCTV and access control systems shall be submitted to and approved in writing by the Local Planning Authority. These measures shall be installed in full accordance with the approved details prior to the first occupation of the development and thereafter shall be retained and shall not be removed or altered in any way.</p> <p><b>Reason:</b> <i>To ensure Secured by Design standards are met, in the interests of safety and security and the health and wellbeing of future occupiers of the development in accordance with Policies DS3, H3 and DE1 of the Coventry Local Plan 2016.</i></p>
<p>Item No. 10</p>	<p><b>Application No. - FUL/2021/1925</b></p> <p>Description of Development - Erection of a queueing shelter to allow seperation distances under COVID-19 (retrospective)</p> <p><b>Site Address</b> - 39 Beech Tree Avenue</p> <p><b>Introduction</b></p> <p>Some of the measurements need clarifying because there is an error in the report and the way they have been reported.</p> <p><b>Application proposal</b></p>

	<p>The structure has the following dimensions:-</p> <p>Length: 8.3 metres Width: 6.1 metres</p> <p>The proposal is to amend this to:-</p> <p>Length 4.05 metres Width: 5.7 metres</p> <p>The height is proposed to remain the same at 2.6 metres.</p> <p><b>Consultation</b> A petition (54 signatures) has been received from Cllr Lapsa supporting the application for the following reasons:</p> <ul style="list-style-type: none"> <li>- The shelter is not out of keeping with the area</li> <li>- It keeps people safe whilst social distancing</li> <li>- It is far enough from houses</li> </ul>
<p>Item No. 11</p>	<p><b>Application No. - HH/2021/1658</b></p> <p>Description of Development - Replacement of detached garage</p> <p><b>Site Address - 27 Malmesbury Road</b></p> <p><b>Consultation</b> A petition with 12 signatures has been received from Councillor Clifford. The petition objects to the proposal for the following reasons:</p> <ul style="list-style-type: none"> <li>• Negative effect and impact on neighbouring amenities</li> <li>• Loss of privacy as a result of the size and height</li> <li>• Size and height will result in loss of 360 sunlight to neighbouring properties</li> <li>• Potential increase in noise and traffic</li> <li>• Potential use not to remain ancillary to property</li> <li>• Lowering desirability and valuations</li> <li>• Access only, it is not to be used for parking</li> <li>• Requires two entrances for potential use, which is out of keeping</li> </ul> <p><b>Officer Response</b> The majority of the issues raised, such as the impact of the development upon neighbouring amenity, are considered in the officer report</p> <p>Those that have not been considered are dealt with below:</p> <ul style="list-style-type: none"> <li>• Lowering desirability and valuations – This is not a planning consideration</li> <li>• Access only, it is not to be used for parking – The proposal does not include any proposal to use the entry as anything other than for access</li> <li>• Requires two entrances for potential use, which is out of keeping – The proposal would not result in a loss of off street parking and the proposed single width door to the rear access way would be visually appropriate.</li> </ul>
<p>Item No. 6</p>	<p><b>Application No. - RM/2020/2399</b></p>



Description of Development - Submission of reserved matters (layout, internal access arrangements, scale, appearance and landscaping) for Phases 2A and 2B comprising 394 dwellings, pursuant to outline permission OUT/2014/2282. The outline application was accompanied by an Environmental Statement.

**Site Address** - Land Bounded by Hall Brook Bennetts Road South, Sandpits Lane and Tamworth Road

### **Consultation**

One additional comment received from a neighbour; no material planning considerations raised. In summary concerns raised regarding lack of confidence in the system.

### **Appraisal**

#### Highway considerations

2<sup>nd</sup> paragraph to be amended to remove:

*'The car parking standards set out in Appendix 5 to the Local Plan indicate that the provision of private car parking will not generally be promoted within the City Centre as it is highly accessible by a range of transport modes and there is already an adequate supply of publicly available car parking'*

An Arboricultural Method Statement is now agreed subject to the additional condition as set out below.

A Road Safety Audit has been received and is currently being considered by the Highway Authority. A verbal update will be provided at your committee.

### **Additional/Amended Conditions**

Amend condition 1 to add Arboricultural Method Statement (October 2021)

Amend condition 7 as follows:

Prior to the occupation of the 150<sup>th</sup> dwelling The Avenue shall be provided to binder course level to allow through traffic from Bennetts Road South to Tamworth Road.

Added condition 9 as follows:

No development or other operations (including any demolition, site clearance or other preparatory works) shall commence unless and until the tree protection measures identified in the approved application documentation have been put into place in strict accordance with the approved details and thereafter they shall remain in place during all construction work. In addition no excavations, site works, stock piling, 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 or root protection area of any protected tree(s); no equipment, machinery or structure shall be located within this zone; 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:*** *To protect those trees which are of significant amenity value to the area and which would provide and enhanced standard of appearance to the development in accordance with Policy GE3 and GE4 of the Coventry Local Plan*