

Barford Sherbourne and Wasperton Joint Parish Council

Minutes of the Meeting of the Planning Committee held on Mon 13 Feb 12 in Sherbourne Village Hall

Present: Cllr J V Murphy (Chairman)
Cllr: Mrs W Barlow, R Clay, S J McVeigh, D C Morrow, Mrs J L Longfield,
Mrs A Gordon, Mrs R Newsome, N F J Thurley , J T Wright
In Attendance: Cllr: P A P Morris

Opening

- 131 The meeting opened at 9:10pm.
132 Twelve members of the public were present.

Public Participation

- 133 Mr Worrall make a statement strongly supporting the Sharba Homes development.
134 Mrs Wilson observed that the Barford Residents' Association's briefing day in Barford Memorial Hall on the Sharba Homes proposal was not unbiased allowing as it did opponents of the scheme to make representations without inviting proponents to make the opposite case.

Declaration of Personal and Prejudicial Interests

- 135 Cllr Morris declared a personal interest in W11/1533 because he is the Chairman of the Barford Residents' Association.

Planning Applications

- 136 **Application No: W 11 / 1471**
Description: Erection of front garage and porch extension with pitched roof canopy above
Address: 2 Fairfax Close, Barford, Warwick, CV35 8ER
Applicant: Mr Rob Miatt
JPC Decision: No objection
- 137 **Application No: W 11 / 1525**
Description: Demolition of existing pool room erection of a single storey gymnasium, games area and bar with basement cinema and wine cellar.
Address: Watchbury Hill, Hareway Lane, Barford, Warwick, CV35 8DD
Applicant: Mr James McCarthy
JPC Decision: No objection
- 138 **Application No: W 11 / 1533**
Description: Development of 58 Houses and Public Park
Address: Land east of Wellesbourne Road and Land north of Wasperton Lane, Barford
Applicant: Sharba Homes (Keys) Ltd
JPC Decision: Objection on the grounds that the proposal is in conflict with several of WDC's policies. Moreover the scheme's mix of housing is inappropriate to the village's needs having too few smaller dwellings.

Notifications

- 139 **Application No:** **W 11 / 0193**
Description: Proposed change of use from offices (Use Class B1) to 2 houses (Class C3) with minor alterations including erection of previously permitted garaging and infilling of garaging to form additional living accommodation
Address: Barns 1 & 2, Pleastowes House, Hareway Lane, Barford, Warwick, CV35 8DD
Applicant: Mr A Murdoch
JPC Decision: No objection always provided there is sensitive use of materials to match existing
WDC Decision: REFUSED
- 140 **Application No:** **W 11 / 0485**
Description: Increase in roof height by 1.5metres to provide first floor accommodation. Construction of kitchen extension at north corner. Provision of french windows to downstairs bedrooms. Provision of 3 solar panels to South East facing roof slope. Construction of vehicular hard standing area off driveway.
Address: 9 Church Lane, Barford, Warwick, CV35 8ES
Applicant: Mr P Davis
JPC Decision: The JPC objects on the following grounds:
 This building lies within a group of dwellings constructed in the 1960s which, whilst not identical, are of a type. The Barford Village Design Statement says that in these circumstances "The starting point for an extension should be the overall form and individual components of the original dwelling. It should follow the established character of the original dwelling, any properties in the immediate vicinity and the zone in which it is found. Large scale extensions are likely to harm the character and appearance of the area and should be avoided." The design and appearance of the development violates this principle.
 The JPC further notes the planned removal of a mature tree; unacceptable in a conservation area.
WDC Decision: REFUSED
Appeal: GRANTED
- 141 **Application No:** **W 11 / 0993**
Description: Erection of single storey rear extension to form swimming pool, demolition of existing summer house.
Address: Avon Tor, Barford Road, Barford, Warwick, CV35 8BZ
Applicant: Mrs Thoday
JPC Decision: No objection.
WDC Decision: GRANTED
- 142 **Application No:** **W 11 / 1133**
Description: Removal of existing pitched roof to entrance area, erection of new lobby area and porch, new roof over existing and proposed areas.
Address: Upper Rowley, Wasperton Lane, Barford, Warwick, CV35 8DQ
Applicant: Mr A Bethell
JPC Decision: The JPC objects:
 Whilst having no objection to the principle of extending the house it finds that the pitch of the roof to the extension is inappropriate and out of keeping with the character of the house.
WDC Decision: GRANTED
- 143 **Application No:** **W 11 / 1214**
Description: Erection of a wooden close board fence to a height of 1.95 metres high and 53 metres in length along the western boundary (Retrospective application)
Address: Wasperton House, Wasperton Road, Wasperton, Warwick, CV35 8EB
Applicant: Mr L Bransby
JPC Decision: No objection
WDC Decision: GRANTED

- 144 **Application No: W 11 / 1216 LB**
Description: Erection of a wooden close board fence to a height of 1.95 metres high and 53 metres in length along the western boundary (Retrospective application).
Address: Wasperton House, Wasperton Road, Wasperton, Warwick, CV35 8EB
Applicant: Mr L Bransby
JPC Decision: No objection
WDC Decision: GRANTED
- 145 **Application No W 11 / 1289**
Description: Installation of two new rooflights
Address: Avonview, Manor Barns, Wasperton Road, Wasperton, Warwick, CV35 8EB
Applicant: Mr & Mrs R Skan
JPC Decision: No objection
WDC Decision: GRANTED
- 146 **Application No: W 11 / 1437 AG**
Description: Erection of a general purpose agricultural building of 4 bay steel frame construction, with concrete floor, dark green corrugated composite panelling to the walls and roof and double roller shutter doors to the southern elevation, for the storage of hay and straw and occasional machinery storage.
Address: Agricultural Buildings, Gooseberry Hall Farm, Hareway Lane, Barford
Applicant: Mr Smith-Ryland
JPC Decision: No objection, always provided that conditions relating to construction details and future use are strictly enforced.
WDC Decision: PRIOR APPROVAL NOT REQUIRED
- 147 **Application No: W 11 / 1480**
Description: To insert a small glazed window in the existing front door.
Address: 7 Farriers Court, Wasperton, Warwick, CV35 8EB
Applicant: Mr J R Lee
JPC Decision: No objection
WDC Decision: GRANTED

Any Other Business

- 148 Cllr Mrs Gordon having previously been delegated the authority to respond on behalf of the JPC to WDC in the matter of Retrospective Planning Application W/11/0968 briefed the meeting on her communication with the Planning Authority (copy attached).

Closure

- 149 There being no further business the meeting closed at 10:30 pm

From: J F Johnson OBE
Clerk to the Council

13 Feb 12

Warwick District Council
Planning Department
(attention Penny Butler)

Dear Sirs

Retrospective Planning Application W/11/0968

The Barford, Sherbourne & Wasperton JPC recommended REFUSAL of this application , for river-edge, timber decking at 2 Sherbourne Court, Sherbourne, because of the risk of contributory worsening of the serious flooding that occurs in that part of Sherbourne, most recently experienced in 1998 and 2007, when the water level of the Sherbourne Brook rose by 2.5m and 2.0m respectively above normal levels.

It has been brought to the JPC's attention that The Environment Agency produced a report [Ref: UT/2011/109531/02-L01, dated 4.11.2011 at Annex A], in which it objected to this retrospective application because of the flood risk and concluded that the decking structure should be removed. The JPC wishes to support this objection and considers the report strengthens the concerns expressed by the JPC when it recommended refusal.

It must be pointed out however that modifications considered by the Environment Agency to relocate the decking further back from the water's edge will not reduce the danger of worsening the flood level when Sherbourne Brook is in spate. The lifted decking would be carried downstream to lodge against the Fulbrooke Lane Bridge, which is less than 500m downstream. This old stone arched bridge was built c.1799, it is only 4.0m wide at the base of the arch, with a freeboard above water level of only 1.8m, hence when the river is swollen floating debris collects against it, as witnessed with uprooted trees, old tree trunks, branches, railway sleepers, garden shed, dustbins, bee-hives and the like causing blockages flooding of some fourteen riverside properties and putting at severe risk ten others only a short distance away should the waters rise by only a further 150mm.

Thus the JPC considers that any proposed repositioning of the decking will not remove the danger of contributing to an increased risk of more severe flooding. Any proposal to secure the decking with concrete rafts and steel fixings would be wholly unsympathetic to the natural riverside environment and out of character within this part of the Conservation Area, and should not be considered as an acceptable amendment to a retrospective planning application, on a site where Permitted Development Rights have been withdrawn.

Further, attention is drawn to the Appeal Decision [APP/T3725/C/07/2038800 at Annex B] , dated 13 Nov 07, in relation to WDC planning application W07/0026, concerning the erection of timber decking on riverside land, only some 100m upstream of the site under current consideration. Two main issues were identified:

1. The effect of the construction on the character and appearance of the area. The Inspector considered that *"the decking fails to preserve or enhance the character or appearance of the Conservation Area"*.
2. The impact on flooding along the Sherbourne Brook. The Inspector expressed serious concerns about the potential impact on flooding and reference was made to PPS25 which states that development within a Zone 3 flood zone should be limited to water compatible uses or essential infrastructure. *"The decking does not fall into either of these categories."* The Inspector decided that *"the decking has a detrimental impact in relation to potential flooding and is therefore contrary to the aims of Policy DP10 of the WDLP."* The appeal was dismissed and the WDC enforcement notice upheld.

Clearly this recent and relevant decision should be applied to the present case currently being considered.

Yours faithfully

Warwick District Council
PO Box 2178
Leamington Spa
Warwickshire
CV32 5QH

Our ref: UT/2011/109531/02-L01
Your ref: W 11/0968
Date: 04 November 2011

Dear Sir/Madam

**CONSTRUCTION OF GARDEN DECKING (RETROSPECTIVE APPLICATION) - RETROSPECTIVE FLOOD RISK ASSESSMENT RECEIVED
2 PUCK`S LAIR SHERBOURNE COURT, VICARAGE LANE, SHERBOURNE**

Thank you for referring the additional information for the above application which was received on 19 October 2011.

The River Sherbourne at this location is a designated main river of the Agency.

Environment Agency Position

We OBJECT to the Retrospective Planning application as submitted for the following reasons.

Our concerns regarding the application site are based on loss of access to the river, loss of habitat and increase in flood risk. In this instance:-

- We accept that access to the river is not significantly compromised by the garden decking as access is already severely restricted at this location due to the existing houses and associated development.
- There has been no specific loss of habitat: the area was originally grassed, as is the remainder of the garden. There is however, an existing gabion/stone wall which forms the bank to the river and on which the decking rests. Although there has not been any loss of habitat in the grassed area, the river forms a 'green' wildlife corridor and will support a variety of species. This should be maintained.
- Flood risk is increased because the decking has been constructed above ground level. It is located within the floodplain of the river and will obstruct and reduce the available flood flow area with the resultant effect of raised flood levels.
- The decking has 'banister type' hand-rails that are in place alongside the river and at 90 degrees to it. This will trap flood debris at this location that will also contribute to raised flood levels.
- It was also noted during a site visit that the decking is not adequately anchored to the ground. There is therefore a potential for the structure to break up in a flood event and block the channel downstream which may magnify flood risk and cause damage.

We consider that the reduction in flood flow area, together with the potential obstruction and debris trap that has been created by the fencing and the fact that it is not adequately anchored to the ground represents an unacceptable increase in flood risk at this location. Although such issues may be considered to have a negligible effect for this one property, such developments can have a cumulative effect on flood risk in the surrounding area.

Because of this increase in flood risk we would recommend that the decking is either removed or lowered to a satisfactory level, moved back from the top of bank, the balustrade fencing removed and the decking anchorage to the ground made secure. In addition, the supporting riverside wall may require rebuilding/improving if it is not stable and the weight of the decking on it has contributed to bank instability.

Retrospective Flood Risk Assessment (FRA)

We have the following comments to make on the retrospective FRA:-

- The FRA recognises that the site is located in Flood Zone 3, which is the high risk zone and is defined for mapping purposes by the Agency's Flood Zones. Flood Zone 3a refers to land where the indicative annual probability of flooding is 1 in 100 years or less from river sources. Flood Zone 3b is the functional floodplain and refers to land where the indicative annual probability of flooding is 1 in 20 years or less from river sources. The FRA fails to establish whether the development area lies within Flood Zone 3a or 3b. Due to the decking location immediately adjacent to the river and the flooding history of the site, it is likely that it may lie within Functional Flood Zone 3b. In line with Planning Policy Statement 25, Development and Flood Risk (PPS25), Table D1, raised ground levels in this zone is not appropriate development as they will result in a loss of floodplain, impede flood flows and increase flood risk elsewhere.

- The FRA states that the proposal is to re-surface a small grassed area with timber decking 'generally at or nominally above the original ground level'. The plans however show the decking to be up to 25 cm high and a site visit by our Development and Flood Risk Officer has confirmed that the area is raised sufficiently to obstruct flow and potentially trap debris. The FRA has not attempted to quantify the effects that the raised decking would have upon flood levels or flow although it does recognise that there could be a potential additional obstruction to flood flow and a debris problem.
- The FRA recognises that there are already a number of restrictions to flood flow along this section of the river corridor. We consider therefore, that in line with PPS25 Table D1, it would be conducive to reduce this number rather than add to it by constructing raised decking and additional fencing in this location, thereby increasing flood risk.
- We concur with the requirement identified in the FRA to adequately anchor the decking to the ground.
- The FRA recognises that the balustrade fencing is a potential debris trap and restriction to flow. We do not however accept that making it demountable is adequate mitigation for the structure. In reality, this is impractical and the situation cannot be monitored to ensure compliance in times of flood.
- We acknowledge that the decking is not considered to substantially hinder access to the river at this location as the nature of the surrounding housing and structures already limit such access. We would point out however that although the River Sherbourne is a designated main river of the Agency at this location, the owner of the property still has riparian responsibilities concerning the maintenance and or repairs required to the river bank (subject to Agency consent under the Land Drainage Bye Laws) especially in light of the existing access restrictions.
- The mitigation measures identified in the FRA place an emphasis on the decking having no measurable or significant effect upon flood flow or debris arrest. These points are not considered acceptable at this location for the following reasons.
 - The decking is noticeably raised above the garden level and is situated within the flood flow path of the River Sherbourne. This reduction in flow area will have a negative effect upon flood levels.
 - The balustrade fencing will trap flood debris which would also exacerbate flooding.
 - There is no guarantee that the fencing would be erected and dismantled on a regular basis especially when such a facility could be used on a daily basis.

Conclusion

Due of the increase in flood risk we would recommend that the decking structure is removed in its current form.

However, we would be able to remove our objection to decking in this location if the following points are addressed:

- The decking should be lowered to the original ground level and set back slightly from the top of bank of the river in order to avoid obstruction to flood flows, reduction in flood water storage and potentially undermining the stability of the river bank.
- The balustrade fencing should be removed to avoid obstruction to flood flow and debris collection during a flood event.
- The decking must be adequately anchored to the ground.
- It was noted during our site visit that the wall may be in need of repair and may not be a suitable foundation for the decking structure at top of bank. The wall may require rebuilding/improving if it is not stable and the river bank stability has been compromised by the existing works.

Advice to Applicant

Designation as "main river" gives the Environment Agency permissive powers to maintain the watercourse. However, responsibility for riverbank maintenance lies with the riparian owner. (This is the person who owns the land running alongside the riverbank.) As the riparian owner, they will be responsible for all maintenance work to the riverbank.

Under the terms of the Water Resources Act 1991 and the Land Drainage Byelaws, the prior written consent of the Agency is required for any proposed works or structures in, under, over or within 8 metres of the top of the bank of the Sherbourne Brook, designated a 'Main River'.

Yours faithfully

Mr James Kitchen
Team Leader - Planning Liaison



Appeal Decision

Site visit made on 29 October 2007

by **Peter F Burley MA BPhil DipTP MLI MRTPI**

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
13th November 2007

Appeal Ref: APP/T3725/C/07/2038800

5 The Stables, Vicarage Lane, Sherbourne, Warwick, CV35 8AB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mrs Peta Wilkinson against an enforcement notice issued by Warwick District Council.
- The Council's reference is W07/0026.
- The notice was issued on 12 February 2007.
- The breach of planning control as alleged in the notice is the erection of timber decking on the land adjacent to the Sherbourne Brook, in the position shown on the plan annexed to the notice.
- The requirements of the notice are to remove the timber decking in its entirety and remove all the materials from the land.
- The period for compliance with the requirements is two calendar months.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Decision

1. I dismiss the appeal and uphold the enforcement notice. I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Main issues

2. There are two main issues in this case. These are firstly the effect of the development on the character and appearance of the area and secondly the impact on flooding along the Sherbourne Brook.

Reasons

Character of the area

3. The timber decking, which is surrounded by a post and rail fence, measures some 10.8 x 7.8 metres. It is therefore a relatively large structure. However, as it is sited amongst a number of alder trees, immediately adjacent to the brook, it is not prominent from any viewpoint beyond the paddock in which it is located. When it was new the colour of the wood may have made it more visible but it now blends in reasonably well with the surrounding vegetation.
4. I acknowledge that the use of such a feature for animal husbandry is unusual. However, given the very damp condition of the paddock I find no reason to disbelieve the appellant's intention to use it for this purpose. The fact that sheep may not have been kept in the paddock before on a regular basis does not alter my view. Although its position adjacent to the brook does seem rather strange, given its intended purpose, it is clearly better screened in this location and it is also closer to the appellant's dwelling. I do not consider

therefore that the development would be in serious conflict with the objectives of Policy DP3 of the Warwick District Local Plan 1996-2006 (WDLP), in so far as it seeks to safeguard the landscape of the District.

5. However, as well as considering the impact on the character and appearance of the area in general, I have also had regard to the desirability of preserving or enhancing the character or appearance of the Sherbourne Conservation Area within which the site lies, as required by S72 (1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.
6. The Conservation Area covers most of Sherbourne, which is a largely linear, rural village, and the immediately surrounding meadows and paddocks. Judging from what I saw during my visit the undeveloped nature of these paddocks makes a significant contribution to the rural character and setting of the village. Within this context I find the domestic appearance and form of the decking looks alien and out of place. I appreciate that other decking and timber structures exist within the Conservation Area but these would appear to be largely within existing gardens. As such I do not consider they set a precedent for the appeal structure. In my view, the decking fails to preserve or enhance the character or appearance of the Conservation Area.

Flooding

7. I also have serious concerns about the potential impact on flooding. The structure lies within a Zone 3 flood zone¹. In the absence of a flood risk assessment (FRA), I cannot be certain whether it falls within Zone 3a, where there is a high probability of flooding, or within Zone 3B, the functional flood plain. However, given its proximity to the brook I find no reason to disagree with the Environment Agency's contention that it is more likely to lie in the latter. PPS25 makes clear that in such areas development should be limited to water compatible uses or essential infrastructure. The decking does not fall into either of these categories.
8. Even if the development fell within Zone 3a, in the absence of an FRA it is not possible to conclude that it would have an acceptable impact on flooding. Given its location and the positioning of the supports, I consider it is highly likely that the decking would trap material being carried down the brook when it is in spate. This would increase the risk of flooding upstream. In the circumstances, I find that the decking has a detrimental impact in relation to potential flooding and is therefore be contrary to the aims of Policy DP10 of the WDLP. In my view this would have justified dismissing the appeal even if I had found the decking to be visually acceptable.

Other matters

9. I have taken into account the comments of the Parish Councillor regarding the contribution the appellant has made to looking after the Conservation Area. However, this does not outweigh the planning objections I have identified.

Peter F Burley

Inspector

¹ As defined in Table D1 in Planning Policy Statement 25 (PPS 25) "Development and Flood Risk"