

A meeting of the above Committee will be held at Shire Hall, Market Place, Warwick on Tuesday 18 June 2024, at 6.00pm.

Councillor A Boad (Chairman)  
Councillor J Falp (Vice Chairman)

Councillor L Cron  
Councillor R Dickson  
Councillor B Gifford  
Councillor M Luckhurst  
Councillor J Kennedy  
Councillor R Noonan

Councillor P Phillips  
Councillor N Tangri  
Councillor C Wightman  
Councillor K Dray

### **Emergency Procedure**

At the commencement of the meeting, the emergency procedure for Shire Hall will be announced.

### **Agenda** **Part A – General**

#### **1. Apologies & Substitutes**

- (a) to receive apologies for absence from any Councillor who is unable to attend; and
- (b) to receive the name of any Councillor who is to act as a substitute, notice of which has been given to the Chief Executive, together with the name of the Councillor for whom they are acting.

#### **2. Declarations of Interest**

Members to declare the existence and nature of interests in items on the agenda in accordance with the adopted Code of Conduct.

Declarations should be disclosed during this item. However, the existence and nature of any interest that subsequently becomes apparent during the course of the meeting must be disclosed immediately. If the interest is not registered, Members must notify the Monitoring Officer of the interest within 28 days.

Members are also reminded of the need to declare predetermination on any matter.

If Members are unsure about whether or not they have an interest, or about its nature, they are strongly advised to seek advice from officers prior to the meeting.

3. **Site Visits**

The Chairman to report the location of the planning application sites visited and the names of the Committee Members who attended.

**Part B – Planning Applications**

To consider the following reports from the Head of Place, Arts and Economy:

4. **W/23/1726 – Land of Thickthorn, Kenilworth** (Pages 1 to 22)

**\*\*\*MAJOR APPLICATION\*\*\***

5. **W/23/0622 - Pump Room Gardens, Dormer Place, Royal Leamington Spa**  
(Pages 1 to 12)

6. **W/23/0739 - Grand Union Farm, Rising Lane, Baddesley Clinton**  
(Pages 1 to 8)

7. **W/23/1597 - Former Timber Yard, Old Warwick Road, Lapworth**  
(Pages 1 to 23)

8. **W/24/0412 - 10-12, 14-28, 32-45 Martinique Square, Bowling Green Street, Warwick**  
(Pages 1 to 6)

9. **W/24/0476 - Nos. 1,2,3,4,5,6,7,8 Farriers Court, Wasperton**  
(Pages 1 to 4)

10. **W/24/0177- Regency House, Newbold Terrace, Royal Leamington Spa**  
(Pages 1 to 5)

11. **W/24/0430 - 230 Warwick Road, Kenilworth**  
(Pages 1 to 4)

**Part C – Other matters**

12. **Appeals Report** (To Follow)

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Warwick District Council, Town Hall, Parade, Royal Leamington Spa, CV32 4AT or telephone 01926 456114.

For enquiries about specific reports, please contact the officers named in the reports. You can e-mail the members of the Committee at [planningcommittee@warwickdc.gov.uk](mailto:planningcommittee@warwickdc.gov.uk)

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**Planning Committee:** 18 June 2024

**Item Number:** 4

**Application No:** [W 23 / 1726](#)

**Town/Parish Council:** Kenilworth  
**Case Officer:** Dan Charles

**Registration Date:** 04/12/23  
**Expiry Date:** 04/03/24

01926 456527 dan.charles@warwickdc.gov.uk

### **Land of Thickthorn, Kenilworth**

Application for approval of reserved matters for Phase 2 (revised) for residential Development of 144 dwellings, Public Open Space and ancillary infrastructure relating to appearance, landscaping, layout and scale in pursuance of hybrid planning permission W/20/2020. FOR Stantec

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This application is being presented to Committee due to the number of objections and an objection from the Parish/Town Council having been received.

### **RECOMMENDATION**

Planning Committee is recommended to approve the reserved matters, subject to the conditions listed at the end of this report.

### **DETAILS OF THE DEVELOPMENT**

This application seeks the approval of reserved matters relating to the appearance, layout, landscaping and scale of the development, following the grant of hybrid planning permission W/20/2020 for up to 550 dwellings, employment land and a local centre, community centre and land for a new primary school together with all ancillary works. The site forms part of allocation H06 within the Local Plan and forms part of the strategic extension to the East of Kenilworth.

This proposal is for the erection of 144 dwellings together with all internal site works as matters reserved from the outline that granted the principle of development and the means of access to the public highway.

### **THE SITE AND ITS LOCATION**

The site is located to the southern edge of Kenilworth.

The site was removed from the Green Belt, when the Green Belt boundary was redrawn as part of Warwick District Council's Local Plan review, and now forms part of a wider site allocation (H06). The allocation seeks the delivery of an urban extension to Kenilworth including new housing, schools, local centre and employment space. The application also incorporates allocation E1 which is identified for 8 hectares of employment land consisting of B1 (now superseded by use class E) and B2 uses.

The site's eastern boundary is formed by the A46, which is part of the strategic highway network, and the northwest boundary is defined by the back gardens of the development of Glasshouse Lane and Kenilworth Rugby Club. To the south-west is the A452 Leamington Road with residential properties situated on the southern side of the road, and to the northeast is a public right of way that separates this site from the remainder of the allocated area.

The overall site occupies 31.70 ha of agricultural land with a small woodland along the eastern boundary and with some trees subject to Tree Preservation Orders (TPO). There are some mature hedgerows delineating field boundaries, areas of mature tree belts some located alongside the public footpaths and a limited number of scattered mature trees across the site.

The site generally slopes down gently in a south easterly direction. The low point is gathered at a woodland area within the central eastern edge of the site.

The Grade II\* Registered Stoneleigh Abbey Park and Garden is located some distance to the southeast, on the opposite side of the A46, and the Roman settlement at Glasshouse Wood – a scheduled monument – is located to the northeast of the application site.

The specific parcel of land that forms this element of the development is located to the Eastern side of the site and is flanked by Glasshouse Lane to the northern boundary, the A46 to the southern boundary and Rocky Lane to the eastern boundary. To the immediate west is additional land forming part of the wider outline planning permission.

As explained below, the site forms parts of the strategic Local Plan allocation H06 and as such is an important aspect of the Council's housing delivery strategy. That strategy supports the ongoing provision of a 5-year housing land supply which itself is crucial in continuing to enable the Council to retain control of the pattern of housing development across the district.

## **PLANNING HISTORY**

W/22/1990 - Application for reserved matters (phases 2, Local Centre (Retail), Self-Build and Spine Road) relating to appearance, landscaping, layout and scale in pursuance of hybrid planning permission W/20/2020 – Pending Consideration.

W/20/2020 - Hybrid planning application comprising full planning application for 98 dwellings (Class C3) served via two new vehicular / pedestrian / cycle access connections from Leamington Road, pedestrian and cycle access to Thickthorn Close; strategic landscaping and earthworks, surface water drainage and all other ancillary infrastructure and enabling works and Outline planning application for demolition of existing buildings and structures; residential development of up to 452 dwellings (Class C3); primary school (Class F.1); employment (Class B2); Class E development; hot food takeaway (sui generis), community centre (Class F.2); strategic landscaping and earthworks, surface water drainage and all other ancillary infrastructure and enabling works with means of site access (excluding internal roads) from the new junction into the detailed parcel of development and

access junction off Glasshouse Lane; all other matters (internal access, layout, appearance, scale and landscaping) reserved for subsequent approval – GRANTED 21.12.2021.

## **RELEVANT POLICIES**

- National Planning Policy Framework
- Kenilworth Neighbourhood Plan (2017-2029)
- KP4 - Land East of Kenilworth
- KP8 -Traffic
- KP9 - Cycle Routes
- KP11 - Footpaths
- KP12 - Parking Standards
- KP13 - General Design Principles
- KP15 - Environmental Standards of New Buildings
- KP16 - Industrial Estates
- KP18 - Green Infrastructure
- KP19 - Local green space
- KP20 - Street trees
- KP21 - Flooding
- Warwick District Local Plan (2011-2029)
- DS1 - Supporting Prosperity
- DS3 - Supporting Sustainable Communities
- DS5 - Presumption in Favour of Sustainable Development
- DS6 - Level of Housing Growth
- DS10 - Broad Location of Allocated Sites for Housing
- DS11 - Allocated Housing Sites
- DS15 - Comprehensive Development of Strategic Sites
- PC0 - Prosperous Communities
- H0 - Housing
- H1 - Directing New Housing
- H2 - Affordable Housing
- H4 - Securing a Mix of Housing
- H15 - Custom and Self-Build Housing Provision
- SC0 - Sustainable Communities
- BE1 - Layout and Design
- BE2 - Developing Strategic Housing Sites
- BE3 - Amenity
- BE5 - Broadband Infrastructure
- BE6 - Electronic Communications (Telecommunications and Broadband)
- TR1 - Access and Choice
- TR2 - Traffic generation
- TR3 - Parking
- HE1 - Protection of Statutory Heritage Assets
- HE2 - Protection of Conservation Areas
- HE4 - Archaeology
- HS1 - Healthy, Safe and Inclusive Communities
- HS3 - Local Green Space
- HS4 - Improvements to Open Space, Sport and Recreation Facilities
- HS5 - Directing Open Space, Sport and Recreation Facilities

- HS6 - Creating Healthy Communities
- HS7 - Crime Prevention
- CC1 - Planning for Climate Change Adaptation
- CC3 - Buildings Standards Requirements
- FW1 - Development in Areas at Risk of Flooding
- FW2 - Sustainable Urban Drainage
- FW3 - Water Conservation
- FW4 - Water Supply
- NE1 - Green Infrastructure
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- NE3 - Biodiversity
- NE4 - Landscape
- NE5 - Protection of Natural Resources
- DM1 - Infrastructure Contributions
- DM2 - Assessing Viability
- Guidance Documents
- East of Kenilworth Development Brief Supplementary Planning Document (March 2019)
- Custom & Self Build Supplementary Planning Document (July 2019)
- Affordable Housing (Supplementary Planning Document - June 2020)
- Air Quality & Planning Supplementary Planning Document (January 2019)
- Public Open Space (Supplementary Planning Document - April 2019)
- Parking Standards Supplementary Planning Document (June 2019)
- Residential Design Guide (Supplementary Planning Document- May 2018)
- Kenilworth Design Advice (Shops, Warwick Road area)

## **SUMMARY OF REPRESENTATIONS**

**Kenilworth Town Council:** Objection on the following grounds:

- Concern over dwellings in far eastern corner of the site and the impact on these properties from the A46.
- Dismayed and final location of local centre.
- Omission of spine road will cause additional pressure on already busy road network.
- No indication of Biodiversity Net Gain Plan.

**Councillor Pam Redford:** Object due to potential flood risk at Ashow as a result of this development.

**WDC Site Delivery Officer:** Supportive of application. Housing Mix needs to be addressed in latter phases. Spine Road is a key piece of infrastructure and note that the outline trigger requires this to be delivered. Applicant has submitted plans that are generally in accordance with the Development Brief and Policy KP4 of the Kenilworth Neighbourhood Plan. Applicant should be encouraged to consider the requirements of the NZCDPD.

**WDC Conservation:** No objection.

**WDC Green Space Officer:** No objection. Scheme has been subject to negotiations, and these have been incorporated into the final plans.

**WDC Housing Strategy:** Note that the later phases will address the full requirements for affordable housing mix, therefore, no objection.

**WDC Waste Management:** No objection.

**WCC Flood Risk Management:** Following receipt of updated drainage information, no objection.

**WCC Highways:** No objection. There are a number of minor elements of concern regarding the application. These elements will be reviewed within a Road Safety Audit. In normal circumstances, this would form part of the application but in this case, the Highways Authority considers that this can be secured by condition. Also recommend other conditions and notes relating to the standards required for the roads associated with the development.

**WCC Rights of Way:** No objection subject to condition requiring protection of public rights of way.

**WCC Landscape:** Latest revisions have addressed our comments.

**Active Travel England:** No comment.

**National Highways:** No objection.

**Natural England:** No objection.

**Public Response:** A total of 15 objections received on the following grounds:

- Proposal will impact on drainage into Ashow stream that may result in flooding in Ashow.
- Development must not increase surface water run-off.
- Three storey houses on southern boundary will cause light pollution to historic parkland.
- Increased traffic.
- Concern about creating public access alongside Nos. 38 and 38A Glasshouse Lane.
- Concern regarding accuracy of boundary line at 42 Glasshouse Lane.

## **ASSESSMENT**

### **History/Background**

This application was presented to Planning Committee on 21 May 2024 with a recommendation of approval. The application was deferred in order to:



- Seek the attendance of a representative from the Highways Authority to attend and advise on the delivery of the spine road and why they consider that this is not necessary for the level of development proposed.
- To seek a report addressing the safety protocols in place at the Multi-Use Games Area (MUGA).
- To seek advice from Environmental Health addressing air quality concerns.

In relation to points 2 and 3, Officers can advise the following:

Safety protocols in place at the Multi-Use Games Area (MUGA)

Upon consideration of the proposal, it was noted that Members were pleased to see the Open Space facilities coming forward at an early stage. In considering the layout, information was requested relating to the proximity of the Multi-Use Games Area adjacent to a large SUDS pond on the site, due to the potential for balls to leave the MUGA and fall into the attenuation pond, resulting in concerns over the safety of this arrangement. Part of the deferral was to seek further information regarding mitigation measures to minimise the potential of the above scenario taking place.

Following the deferral, the applicants have consulted with their open space advisors who have now submitted an updated MUGA plan to incorporate a 3m and 5m high panelling feature on the southern boundary of the MUGA to prevent balls leaving the court. The 5m panelling is along the southern boundary of the MUGA, nearest the SUD.

This is currently labelled as 'exact details to be agreed with the local planning authority at this stage on the basis that the applicants have not yet confirmed with the LPA which boundary treatment specification is preferred (both product and manufacturer).

The SUDS Pond adjacent to the MUGA is also confirmed as being 'seasonally wet' and the banks around on the basin are no steeper than 1:3. There will therefore be significant periods of the year where the feature is dry and therefore, any encroachment onto the land would not be subject to the level of risk that would be present should it be a permanently wet SUDS feature.

In addition, there is an obligation set out within the Section 106 that requires the submission of the final Public Open Space Scheme. This scheme will set out the design, specification, landscaping and associated equipment, boundary treatments of all of the open space areas together with a programme for delivery of these works and details of the maintenance programme. The applicant is required to submit the above details to be determined by the Open Space Officer and approved in writing by the Council.

Therefore, as the proposal indicates the detail on the submitted MUGA drawing, this will form part of the approved plans and will be a requirement to be delivered prior to the first use of the MUGA. In addition to the condition, the S106 Agreement will also secure the details. On this basis, Officers are satisfied that

the applicants are required to ensure that sufficient boundary treatment is shown to address Members' comments.

Whilst there are mechanisms to secure the increased boundary treatment, the applicants have also indicated that they are content to agree to a condition being imposed on the Reserved Matters application, that requires the details of the boundary treatment to be agreed in writing by the LPA, should Members consider it necessary.

### Air Quality

The application was considered at outline stage for the potential impact on air quality. As part of the outline application, an Air Quality Statement was submitted and assessed by the Council's Environmental Health Officer who was satisfied that the information submitted was robust and raised no objection, subject to a condition requiring the submission of a further air quality assessment once the final layout of the scheme was known.

In pursuance of the imposed condition, an Air Quality Constraints Assessment Report was submitted by a specialist consultant. The report was updated to reflect change in policy and guidance as well as the revised development phasing. The report confirms that the proposed development would not be exposed to air pollutants above the national air quality objective levels therefore no specific mitigation measures are necessary.

The content and data contained within the report has been assessed by the WDC Environmental Health Officer who is satisfied that the report is robust and raises no objection to the report on the basis that it demonstrates that the development of Phase 2 would not be adversely affected by poor air quality. This condition was therefore discharged in accordance with the submitted report.

On the basis of the above, Officers are satisfied that the development would not result in poor air quality that would be detrimental to the amenity of future residents of the proposed development.

### **Procedural Matter – Lack of Five-Year Housing Land Supply**

The Inspector in the Leek Wootton Police Headquarters appeal decision has determined that Warwick District Council cannot demonstrate a 5 Year Housing Land Supply. Following this appeal, the Inspector has determined that WDC can only demonstrate a 4.01 Year Housing Land Supply and at the time of the decision, has a shortfall of 665 dwellings.

When a LPA is unable to demonstrate a five-year supply of housing land, all of its policies for delivering housing are deemed to be out of date. The NPPF states that planning applications should instead be decided based on the presumption in favour of sustainable development contained within Paragraph 11(d) of the NPPF, known as the 'tilted balance'.

This states that for decision making:

Where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted unless:

*i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*

*ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

In this application for reserved matters, the delivery of housing on this site is included within the 5 Year Housing Land Supply figures. Should this application result in a delay to the delivery of housing on the site, this would further affect the Housing Land Supply.

In weighing up this scheme, Officers are satisfied that there are no matters which would significantly or demonstrably outweigh the benefits of delivering housing on the site to support the 5-year housing land supply on sites that are already allocated within the Local Plan.

### **Scope of Reserved Matters consideration**

As this is an application for the approval of reserved matters, it is not possible to reconsider the principle of development. This was considered in the assessment of the outline planning application and was found to be acceptable.

The outline planning permission also approved the vehicular accesses to the site from Leamington Road and Glasshouse Lane so matters of site access are not for consideration under this Reserved Matters scheme. Part of the internal spine road to serve this phase of dwellings is to be considered within this application. The remaining element of the spine road will be delivered within the next phase. The proposal also includes the majority of the open space areas including equipped play areas together with all the requirements for SuDS provision to serve the whole site.

Consideration of the current application can only include issues related to the detailed appearance, landscaping, layout (including internal roads only) and scale of the site for the 144 dwellings and proposed.

### **Design and impact on visual amenity and the character of surrounding area.**

The National Planning Policy Framework (NPPF) places significant weight on ensuring good design which is a key aspect of sustainable development and should positively contribute towards making places better for people. The NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving character, the quality of an area and the way it functions.

Warwick District Council's Local Plan 2011 - 2029 policy BE1 reinforces the importance of good design stipulated by the NPPF insofar as it requires all development to respect surrounding buildings in terms of scale, height, form and massing. The Local Plan calls for development to be constructed using appropriate materials and seeks to ensure that the appearance of the development and its relationship with the surrounding built and natural environment does not detrimentally impact the character of the local area.

The Warwick District Residential Design Guide sets out steps which must be followed in order to achieve good design in terms of the impact on the local area; the importance of respecting existing important features; respecting the surrounding buildings and using the right materials.

Policy KP13 of the Kenilworth Neighbourhood Plan states that all development proposals should achieve a standard of design that is appropriate to the local area. The Policy sets out a framework for guiding design of new developments. In addition, Policy KP4 of the Neighbourhood Plan relates specifically to the East of Kenilworth Urban Extension.

#### *The Garden Towns, Villages and Suburbs Approach*

The Council's 'Garden Towns, Villages and Suburbs' Prospectus seeks to bring together the key characteristics of the garden suburbs and villages approach, which include coherent and well-planned layouts, high quality design and consideration of long term management arrangements. The site is considered to fall within the category of 'neighbourhood edge', lying at the edge of the developable area and adjoining countryside.

Officers consider that the proposed scheme would provide a high-quality residential environment which conforms to the garden suburb design principles. The site exhibits the characteristics of a leafy, well designed residential neighbourhood within which open space and structural landscaping is an integral part, paying particular regard to the areas of Public Open Space within and on the fringes of the development. The large area of Open Space to the East provides a soft edge to Rocky Lane whilst providing a Neighbourhood Equipped Area of Play (NEAP) and a Multi-Use Games Area (MUGA).

The Public Open Space to the south is proposed to be natural in appearance to provide a significant buffer between the site and the A46 corridor. This buffer will create a green edge to the development whilst also providing an offset for the purposes of noise and air quality mitigation from the transport corridor. Within this area of open space opportunities for walking and other recreational activities together with significant tree planting to increase the ecological value of this area of the site.

The proposal incorporates a primary route into the site from Glasshouse Lane creating the spine road that will eventually connect into the junction proposed at Leamington Road to provide a relief road to move traffic away from the St Johns gyratory. The spine road is designed as the primary road and will be flanked by a footpath, two-way cycleway and verge with tree planting on the northern side and

footpath with verge tree planting to the southern side. At various points through the site, the foot/cycleways link into the open space areas to provide links through the site.

Thereafter, the scheme would provide a legible hierarchy of streets and spaces in accordance with this document with neighbourhood streets off the principal route and access drives meeting 'country lane' dimensions, adjacent to areas of public open space. The proposed dwellings would face onto these areas of public open space to provide natural surveillance.

The Residential Design Guide (2018) sets standards for the distance separation between the windows of habitable rooms in dwellings. For the most part, the development proposes a layout where these minimum separation requirements are satisfied. In some instances, they are exceeded quite substantially. I am satisfied that the scheme creates an overall character of spaciousness, which positively meets the aims and objectives of the garden suburb prospectus and ensures a good standard of amenity for future occupiers.

### Development Brief

The application site is covered by the East of Kenilworth Development Brief to guide the new development on this allocated strategic extension to the town of Kenilworth.

The document has been prepared by Warwick District Council and followed the adoption of the Council's Local Plan 2011-2029 in 2017. The document seeks to guide future development within strategic allocations to the eastern side of Kenilworth and ensure that development within the sustainable urban extension is delivered in a comprehensive manner.

In preparing the Development Brief, Warwick District Council has undertaken extensive consultation with key stakeholders including Warwickshire County Council, Kenilworth Town Council, landowners, land promoters and infrastructure providers to seek views and inform the content of the document in accordance with the Council's Statement of Community Involvement. In addition to stakeholders, the document has also been through a comprehensive public consultation including drop-in sessions for local residents.

The adopted Development Brief is a Supplementary Planning Document (SPD) and as such, is a material consideration in the determination of planning applications within the area covered by the document. This document provides detailed development principles that expand upon and help interpret existing policies as they relate to the site. There are 8 objectives within the Development Brief which are:

1. Delivery of a mix of housing to create a sustainable community.
2. Delivery of high-quality employment land and employment opportunities that are compatible with adjacent uses.
3. Delivery of an effective and efficient transport system.
4. Delivery of social and community infrastructure including new education

- establishments to support the new community.
5. Creating a high-quality environment with a strong sense of place that respond sensitively to and takes advantages of the existing environmental characteristics of the site including greenspaces, ecology and heritage assets.
  6. Promoting a healthy and safe community.
  7. Promoting high quality design.
  8. Delivery of utilities and infrastructure to meet the needs of the development.

### General design and layout considerations

In line with the outline permission, the site is predominantly proposed as two storey units consisting of single dwellings together with some two and a half storey dwellings and apartment buildings.

Feature dwellings are located around the development where key focal points have been identified opposite junctions etc. In addition, dual aspect units are proposed to the corner plots to provide active frontages throughout the development to ensure that all properties engage with the public domain to minimise blank walls etc being present within the local street scene. Where walls are necessary to provide private amenity space, these are set behind landscaped areas that front onto the street to reduce the visual impact of the walls and providing a soft, green edge.

The development is made up of a mix of detached, semi-detached, and terraced properties. Where terraced properties are proposed, these are kept to rows of a maximum of 4 units.

This proposal is considered to meet the criteria set out within the Development Brief in general terms and will deliver the first section of the spine road through the site to provide appropriate vehicular, cycle and pedestrian access to serve this parcel of housing whilst providing the link to the wider site. Throughout the site, footpaths and cycleways are proposed to link into the wider site and existing network.

The scheme has been designed to reflect the character of the surrounding housing which responds sensitively to the surrounding development. This element of the development provides the full requirement of open space to ensure a high-quality development, and this will allow the open space areas to be delivered earlier within the development.

Officers consider the layout represents an efficient use of land and results in a well-spaced and legible layout that accords with the general design principles set out in the aforementioned design guidance as well as the approved site-wide Masterplan provided at outline stage.

In terms of appearance, the dwellings form a well-designed scheme has been designed to provide character areas throughout the site that define the different areas whilst still retaining a coherent development in terms of the overall design and appearance.

Brick is predominantly proposed with some render and timber cladding added through the development to enrich the palette of materials to create a high-quality environment. Architectural detailing such as porches, gables, dormers and chimneys are proposed on a proportion of the units and the styles and types of such features differs depending on the house type to add additional character and design features to the development.

Overall, Officers consider that the proposed design and layout would result in an appropriate form of development in visual terms and would not give rise to any harm to the general character of the area.

The proposal is considered to conform with National Guidance set out within the NPPF together with Policy BE1 of the Warwick District Local Plan and additional guidance set out within the Garden Suburbs design document, the Residential Design Guide the Kenilworth Neighbourhood Plan and the Kenilworth Development Brief.

**Housing Mix**

Policy H4 of the Local Plan requires residential development to include a mix of market housing that contributes towards a balance of house types and sizes across the district in accordance with the latest SHMA and as summarised in the most recent guidance document 'Provision of a Mix of Housing' (June 2018), based on current and demographic trends, market trends and the needs of different groups in the community.

As the hybrid permission contained a full planning element of 98 dwellings that had a 20% provision of affordable housing, the remaining phases are required to deliver a higher proportion of affordable units to ensure that the full 40% is achieved across the whole site. The applicants have provided 43.75% affordable units within this phase which will assist in addressing the balance. The final phases will be designed to ensure that the 40% figure is achieved.

This development provides:

Market Housing

<b>Bedrooms</b>	<b>Total</b>	<b>% Proposed</b>	<b>WDC requirement</b>	<b>Difference</b>
1 bedroom	0	0%	5-10%	-5%
2 bedroom	27	33.3%	25-30%	+3.33%
3 bedroom	22	27.16%	40-45%	-12.84%
4+ bedroom	32	39.5%	20-25%	+14.5%

The market housing mix set out is not in accordance with the Housing Mix as set out within the Housing Mix SPD. However, Officers note that this development forms part of a wider, single allocation brought forward under a single planning permission that requires the development to be brought forward in accordance with the housing mix. The future phases must take into account the housing

provided within this phase as well as the full permission granted under the original hybrid permission to ensure that the final development provides a policy compliant mix of dwellings across the site. Officers are therefore satisfied that the housing mix is appropriate.

Affordable Housing

The proposed affordable housing mix for this phase of development is as follows:

<b>Bedrooms</b>	<b>Total</b>	<b>% Proposed</b>	<b>WDC Requirement</b>	<b>Difference</b>
1-bedroom	24	38.1%	30-35%	+3.1%
2-bedroom	31	49.2%	25-30%	+19.2%
3-bedroom	6	9.52%	30-35%	-20.48%
4-bedroom	2	3.17%	2-5%	Within range

This proposal would provide 43.75% affordable housing comprising the mix of dwelling sizes set out in the above table.

The figures set out in the table above are not in accordance with the Housing Mix as set out within the SPD.

The proposal has been assessed by the Housing Strategy Officer who notes that overall, there are slight differences between the preferred mix and the proposed mix but for the social rent, affordable rent and shared ownership units these differences are either relatively minor or balanced elsewhere; for example, the 2 bed shared ownership units are provided as bungalows rather than houses. Given this is one phase of a larger development, there will be opportunities to address minor differences in later phases. The developer should be mindful that the mix will be considered across the whole development when future phases come forward.

There is a more notable difference in the First Homes with there being a significant over provision of 2 bed units at the expense of 3 & 4 bed units. The developer has explained that the price cap applied to First Homes (£250k) makes 3 & 4 bedroom First Homes unviable. Whilst it is accepted that the price cap creates a challenge for delivering larger First Homes, the developer’s decision to include First Homes means there will be no 3- or 4-bedroom affordable home ownership options of any type on this phase.

Were this application for a standalone development, the Housing Strategy Officer would consider the absence of 3- & 4-bedroom affordable home ownership options as a reason to object. However, as this is a single phase of a larger scheme, and there is still more than half of the development to come forward, there is reasonable opportunity to address this imbalance. Therefore, whilst uncomfortable with the affordable home ownership mix and the extent of deviation from the preferred mix, the Housing Strategy Officer does not consider an objection is necessary at this stage.



The layout plan illustrates how the affordable housing would be distributed across the site and for this development, the even distribution of affordable housing is welcomed.

Care has been taken within the layout of the scheme to provide an even spread of affordable housing across the site which, having considered the higher than normal percentage on this scheme has been executed well.

In addition to the above, where affordable units are located in clusters, care has been taken to ensure that the tenures are mixed to prevent social exclusion. It is also noted that the applicants propose tenure blind dwellings that are the same as the market range of dwellings so that they are not visually different. This is to be commended.

### **Impact on adjacent properties**

Policy BE3 of the Warwick District Local Plan states that new development will not be permitted that has an unacceptable adverse impact on the amenity of nearby uses and residents.

The East of Kenilworth Development Brief places significant emphasis on ensuring that the amenity of both existing and new properties is satisfactory in terms of disturbance and noise.

Policy KP13 of the Kenilworth Neighbourhood Plan requires an assessment to be made on the impact on existing and future residents as a result of development proposals and potential impacts from noise, light or air pollution must be assessed and addressed.

The key area of the site is the northern boundary where the site flanks the edge of the existing properties fronting onto Glasshouse Lane. Careful consideration has been given to this relationship and the proposal is to have a back-to-back relationship with the properties for those plots located to the rear. The separation distance is well in excess of the required standards.

To the side, the properties proposed fronting onto the revised section of Glasshouse Lane will have a side-to-side relationship with a setback from the road that matches the existing properties, ensuring both continuity in the street scene as well as limiting any potential harm to the amenity of the existing properties.

### **Amenity of future occupiers**

Policy BE3 of the Warwick District Local Plan states that new development will not be permitted that does not provide acceptable standards of amenity for future occupiers of a development.

The proposed layout and design of this development is in accordance with the garden suburb approach and having regard to the general ethos of the

Development Brief, would provide a high level of residential amenity to the future occupiers of the development within an attractive setting.

The separation distances to surrounding properties are considered to be acceptable, and in many cases are in excess of the minimum separation distance guidance. The proposed development would provide appropriate relationships between neighbouring properties without significant impact upon the amenities of the occupiers.

All garden areas across the site meet or exceed the required garden standards commensurate with the size of property.

The proposed layout and design of this development is in accordance with the garden suburb approach and having regard to the general ethos of the Design Code, would provide a high level of residential amenity to the future occupiers of the development within an attractive setting.

The scheme considered at outline stage was submitted with a Noise Assessment to demonstrate that the development could be carried out on the land would not result in material harm to future residents in terms of air quality and noise impacts from the adjacent A46 Trunk Road. At the outline stage, reports were provided from specialist consultants on both air quality and noise matters. These reports were considered by the Council's Environmental Protection Officer who was satisfied with the detail provided and raised no objection, subject to the imposition of appropriate conditions to secure final reports once the final location of the housing was known.

The Air Quality Assessment was submitted in pursuance of the outline conditions in 2022. Throughout the assessment, the Environmental Protection Officer has considered the proposal and sought clarification on a number of issues which have been satisfactorily answered by the applicant's consultants. The result is that the Environmental Protection Officer is satisfied that the development site would not be affected by poor air quality as a result of the adjacent A46. On this basis, it was recommended that the condition be discharged. Officers are therefore satisfied that the future occupiers of the development would not be subject to poor air quality and the level of amenity is acceptable.

The Noise Mitigation Assessment was submitted in pursuance of the conditions attached to the outline and again, assessed in detail by the Environmental Protection Officer. The technical data has been considered acceptable and the Officer is satisfied that there would be no adverse impact on the amenity of residents. Notwithstanding this, the Environmental Protection Officer also requested further information relating to the noise mitigation barrier proposed at the boundary of the site.

The original proposal was set to be a 2.4m high barrier that provided sufficient noise screening to meet the required amenity standards. However, following discussions, it is now proposed to increase the height of the barrier to 3.4 metres in order to provide a betterment to the noise environment of the nearest dwellings. The result of the increased noise barrier height is that all properties are not reliant on closed windows to achieve an acceptable noise environment. Officers are

therefore satisfied that the future occupiers of the development will have an acceptable level of amenity and would not be subject to inappropriate levels of noise from the adjacent A46.

As the Noise Mitigation requirements are conditions of the outline planning permission, it is not necessary to secure the details by condition on this reserved matters submission.

Officers are satisfied that the development is acceptable having regard to Policy BE3 of the Local Plan.

### **Highway Safety**

Policy TR1 of the Warwick District Local Plan requires all developments provide safe, suitable and attractive access routes for all users that are not detrimental to highway safety. Policy TR3 requires all development proposals to make adequate provision for parking for all users of a site in accordance with the relevant parking standards.

The East of Kenilworth Development Brief places significant emphasis on providing a detailed and effective solution for all transport methods associated with the site and seeks to ensure that sustainable transport methods are prominent within any development proposals.

Policy KP5 of the Kenilworth Neighbourhood Plan states that in considering proposal for new developments that result in additional traffic, priority should be given to pedestrians and cyclists, improve safety and assist traffic flow whilst also accommodating the needs of public transport.

The primary access to the site is from the new proposed access onto Glasshouse Lane and the detail of the access point was approved at the outline stage. This access incorporates the main carriageway, a two-way cycle lane together with footpaths. From the access point, the scheme has a primary spine road that runs centrally through the housing. From this primary road, further minor roads serve the development.

The site has been subject to extensive negotiations with Warwickshire County Council Highways to ensure that all internal roads meet the required specification and are acceptable for adoption. Whilst the layout on the final plans has been generally agreed with the County Highways Officer, there are a number of elements that have been flagged as an area of concern. These elements are minor in nature, and these have been identified as specific points to include within a Road Safety Audit. The Road Safety Audit would form an integral part of the adoption process to ensure that all aspects are safe and would not result in any harm to highway safety. It is standard practice to require the safety audit to be carried out and is used to address minor issues that would not in themselves be a reason to object to the scheme. In this case, it has been determined that this can be secured by condition as the elements are minor. A condition to require the completion of the Safety Audit process is proposed.

Within the site, provision has been made for bus stops to allow the provision of the local bus service into the site to serve the needs of the future occupants. However, it is noted that this would only come into use at the completion of the spine road.

In terms of sustainable transport options, a range of routes through the site are proposed for pedestrians and cyclists. In addition to the main site access, separate connections are also provided for pedestrians and cyclists to connect into Rocky Lane that runs along the eastern boundary of the site and Glasshouse Lane to the north of the site. This provides access for pedestrians and cyclists to the wider area to the east as well as the open countryside to the south.

Wider improvements to the provision of cycleways forms an integral part of the proposed highways works. The spine road is proposed to provide a full off-road cycle way through the core of the site and the site also incorporates a number of other recreational cycle routes giving a range of choice for cyclists.

In terms of parking, each property has an appropriate level of parking in accordance with the Council's Vehicle Parking Standards as well as areas set out for visitor parking. Bin collection points have been provided where necessary for properties off private drives to allow for easy servicing.

Overall, the development is not considered to be detrimental to highway or pedestrian safety and accordingly complies with policies TR1 and TR3 of the Local Plan.

### **Impact on Ecology/Protected Species**

Policy NE3 of the Warwick District Local Plan states that development proposals will be expected to protect, enhance and/or restore habitat biodiversity and where this is not possible, mitigation or compensatory measures should be identified accordingly.

The East of Kenilworth Development Brief seeks to create a high-quality environment with a strong sense of place that responds sensitively to and takes advantages of the existing environmental characteristics of the site including greenspaces and ecology.

The application site was considered by the County Ecologists at outline stage and the scheme was subject to a suite of conditions to ensure that protected species were not harmed. In addition, Biodiversity Net Gain was assessed and alongside a range of on-site measures, a contribution towards off-site Biodiversity enhancements was secured through the Section 106 Agreement.

I therefore consider that the proposal is acceptable having regard to Policy NE3.

## **Drainage and Flood Risk**

The site layout in terms of the SUDS ponds generally reflects the earlier submission under the outline planning permission. A suite of drainage conditions were attached to the outline planning permission as the SUDS pond area was previously considered to be acceptable.

The drainage strategy was secured at outline stage following negotiations with the Lead Local Flood Authority (LLFA) to ensure that the site would not result in any increased surface water run-off and would also allow for additional storage capacity in line with additional flood risk as a result of climate change.

The submitted layout differed from that shown within the outline drainage strategy and as a result, the preliminary response from the LLFA was one of objection. Following clarification with the LLFA, the drainage layout on the submitted drawings satisfactorily demonstrated that appropriate drainage can be provided on the site and the detailed proposal will be controlled via conditions on the technical specification associated with the outline application.

Based on the updated information no objection is raised by the LLFA to these proposals with regard to the drainage and surface water management.

Officers consider that the development is therefore acceptable in this respect.

## **Open Space**

The area of the site proposes the majority of the required public open space for the wider development approved under outline planning permission W/20/2020 and as such incorporates a range of typologies including a Neighbourhood Equipped Area of Play (NEAP), a Multi-Use Games Area (MUGA), Local Equipped Areas of Play (LEAP), a trim trail as well as areas of informal open space including a range of off-road footpaths around the development.

This approach will ensure that the public open space is well advanced through this phase and already available for use for the future occupiers of the later phases of the development. This approach is welcomed as it will forward deliver this important aspect of any new housing development.

## **Other Matters**

### Sustainability

As this is an application for reserved matters, it is not possible to impose the Net Zero Carbon DPD Standards on the development as this is a requirement of the outline planning permission phase that sets the parameters for development.

The outline permission was subject to a sustainability condition to improve the required standards of housing on the site so the site will still benefit from improved energy efficiency.

## Trees/Hedgerows

A key aspect of the East of Kenilworth Development Brief is the retention of trees and hedgerows within the development sites.

The site benefits from existing trees and hedgerows and where possible, these have been incorporated into the design to increase both the amount of green space and also retain the existing ecological corridors. The site layout has given specific regard to these features and the scheme designed around them which is considered a benefit of the site.

The proposal incorporated significant additional planting across the site in both the public realm and private garden areas.

Officers are satisfied that the resultant scheme is of a high landscape standard.

## Waste Storage

All properties are provided with appropriate bin storage areas to the rear of properties to ensure that refuse is stored away from the public realm. In addition, where private drives are used, bin collection points are provided to allow the bins to be serviced by the Council Waste Service.

## **Conclusion**

Officers consider the proposed development would provide a high-quality residential environment in accordance with the Kenilworth Development Brief and the garden suburbs principles, including an appropriate mix of market and affordable housing and acceptable dwelling house and layout design solutions, including landscaping and substantial areas of public open space.

There would be no harm arising in terms of neighbour amenity, highway safety or ecology and as such it is considered the scheme therefore complies with the policies listed.

The matters that were raised at the May Planning Committee have been satisfactorily addressed by the applicants to the satisfaction of Officers and accordingly, Officers recommend that the reserved matters be approved.

## **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) 1099 - 77A - Argyll Salcy -Floor Plans, 1099 - 78A - Argyll & Salcy Elevations, A1099\_02G\_Planning Layout-Sheet 3 Colour Presented Layout, A1099\_03C\_Massing Plan, , A1099\_05C\_Occupancy Plan, A1099\_06C\_Materials Plan, A1099\_07D\_Refuse Plan, A1099\_08D\_Affordable Housing Plan, A1099\_09D\_Parking Plan, A1099\_10C\_Garden Area Plan, A1099\_11C\_Character Area Plan, A1099\_12C\_Chimney Location Plan, A1099\_13C\_External Surfacing

Plan, A1099\_14C\_Street Hierarchy Plan, A1099\_15D\_EV Charging Arrangements, A1099\_16C\_Land Use Plan, A1099\_19B\_Street Scenes, A1099\_21B\_Geometry Plan, A1099\_23B\_Cycle Route Plan, A1099\_30C\_House Type Brochure, GL2264 01D Plot Landscape Proposals (Sheet 1 of 3), GL2264 02D Plot Landscape Proposals (Sheet 2 of 3), GL2264 03D Plot Landscape Proposals (Sheet 3 of 3), GL2264 07D LEAP Proposals, GL2264 08C Trim Trail Proposals, and specification contained therein, submitted on 3 May 2024 and;

Approved drawings 06106-D1-0100-P4 Adoption Plan Overview, 06106-D1-0101-P4 Adoption Plan Sheet 1 of 5, 06106-D1-0102-P4 Adoption Plan Sheet 2 of 5, 06106-D1-0103-P4 Adoption Plan Sheet 3 of 5, 06106-D1-0104-P4 Adoption Plan Sheet 4 of 5, 06106-D1-0105-P4 Adoption Plan Sheet 5 of 5, 06106-D1-0110 P4 Geometry Plan Overview, 06106-D1-0111 P4 Geometry Plan Sheet 1 of 5, 06106-D1-0112 P4 Geometry Plan Sheet 2 of 5, 06106-D1-0113 P4 Geometry Plan Sheet 3 of 5, 06106-D1-0114 P4 Geometry Plan Sheet 4 of 5, 06106-D1-0115 P4 Geometry Plan Sheet 5 of 5, 06106-D1-0120 P4 Visibility Plan Overview, 06106-D1-0121 P4 Visibility Plan Sheet 1 of 5, 06106-D1-0122 P4 Visibility Plan Sheet 2 of 5, 06106-D1-0123 P4 Visibility Plan Sheet 3 of 5, 06106-D1-0124 P4 Visibility Plan Sheet 4 of 5, 06106-D1-0125 P4 Visibility Plan Sheet 5 of 5, 06106-D1-0130 P4 Visibility Private Driveways Overview, 06106-D1-0131 P4 Visibility Private Driveways Sheet 1 of 5, 06106-D1-0132 P4 Visibility Private Driveways Sheet 2 of 5, 06106-D1-0133 P4 Visibility Private Driveways Sheet 3 of 5.pdf, 06106-D1-0134 P4 Visibility Private Driveways Sheet 4 of 5, 06106-D1-0135 P4 Visibility Private Driveways Sheet 5 of 5, 06106-D1-0140 P4 Refuse Vehicle Tracking Overview, 06106-D1-0141 P4 Refuse Vehicle Tracking Sheet 1 of 2, 06106-D1-0142 P4 Refuse Vehicle Tracking Sheet 2 of 2, 06106-D1-0150-P4 Fire Tender Vehicle Tracking Overview, 06106-D1-0151-P4 Fire Tender Vehicle Tracking Sheet 1 of 2, 06106-D1-0152-P4 Fire Tender Vehicle Tracking Sheet 2 of 2, 06106-D1-0160 P4 MPV Vehicle Tracking Overview, 06106-D1-0161 P4 MPV Vehicle Tracking Sheet 1 of 5, 06106-D1-0162 P4 MPV Vehicle Tracking Sheet 2 of 5, 06106-D1-0163 P4 MPV Vehicle Tracking Sheet 3 of 5, 06106-D1-0164 P3 MPV Vehicle Tracking Sheet 4 of 5, 06106-D1-0165 P4 MPV Vehicle Tracking Sheet 5 of 5, 06106-D1-0170 P4 S38 Plan Overview, 06106-D1-0171 P4 S38 Plan Sheet 1 of 5, 06106-D1-0172 P4 S38 Plan Sheet 2 of 5, 06106-D1-0173 P4 S38 Plan Sheet 3 of 5, 06106-D1-0174 P4 S38 Plan Sheet 4 of 5, 06106-D1-0175 P4 S38 Plan Sheet 5 of 5, 06106-D1-0180 P4 Preliminary Infrastructure Overview, 06106-D1-0181 P4 Preliminary Infrastructure Sheet 1 of 5, 06106-D1-0182 P4 Preliminary Infrastructure Sheet 2 of 5, 06106-D1-0183 P4 Preliminary Infrastructure Sheet 3 of 5, 06106-D1-0184 P4 Preliminary Infrastructure Sheet 4 of 5, 06106-D1-0185 P4 Preliminary Infrastructure Sheet 5 of 5, 06106-D1-0200 P4 Road Hierarchy Plan Overview, 06106-D1-0400 P4 Crossings Overview, 06106-D1-0401 P4 Crossings Sheet 1 of 5, 06106-D1-0402 P4 Crossings Sheet 2 of 5, 06106-D1-0403 P4 Crossings Sheet 3 of 5, 06106-D1-0404 P4 Crossings Sheet 4 of 5, 06106-D1-0405 P4 Crossings Sheet 5 of 5, 06106-D1-0410 P4 Bus Vehicle Tracking Overview, 06106-D1-0411 P4

Bus Vehicle Tracking Sheet 1 of 2, 06106-D1-0412 P4 Bus Vehicle Tracking Sheet 2 of 2, 06106-D1-0190 P4 Preliminary Drainage – Overview, 06106-D1-0191 P4 Preliminary Drainage - Sheet 1 of 5, 06106-D1-0192 P4 Preliminary Drainage - Sheet 2 of 5, 06106-D1-0193 P4 Preliminary Drainage - Sheet 3 of 5, 06106-D1-0194 P4 Preliminary Drainage - Sheet 4 of 5, 06106-D1-0195 P4 Preliminary Drainage - Sheet 5 of 5, 06106-D1-0196 P4 Preliminary Basin Sections, 06106-D1-0197 P4 Flow Model Reference (West), 06106-D1-0198 P4 Flow Model Reference (East), 06106-D1-0199 P3 Exceedance Flow Plan, and specification contained therein, submitted on 7 May 2024 and;

Approved drawings A1099\_02H\_Planning Layout Sheet 1, A1099\_02H\_Planning Layout-Sheet 2 Composite, A1099\_04E\_Enclosures Plan, GL2264 04E Infrastructure Landscape Proposals (Sheet 1 of 3), GL2264 05E Infrastructure Landscape Proposals (Sheet 2 of 3), GL2264 06E Infrastructure Landscape Proposals (Sheet 3 of 3) and GL2264 09D NEAP & MUGA Proposals and specification contained therein, submitted on 6 June 2024

**Reason:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.

2 No development shall commence, including any site clearance, until:

a) a Stage 1 Road Safety Audit Brief has been submitted to and approved by the Planning Authority, in consultation with the Highway Authority.

b) a Stage 1 Road Safety Audit Report and Designer’s Response (including Appendix D) has been submitted to and approved by the Planning Authority, in consultation with the Highway Authority

The RSA process must be completed in full, with any problems raised throughout the process suitably overcome and agreed as acceptable by the Highway Authority.

The development shall not be occupied until it has been laid out and constructed in general accordance with those plans approved by this condition, including vehicular, pedestrian, cycle and other non-motorised user provision.

**Reason:** In the interests of highway safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.

3 No development shall commence until detailed plans have been submitted to and approved by the Planning Authority, in consultation with the Highway Authority, showing detailed design including the layout and provision of any pedestrian, cycle and other non-motorised user infrastructure to be provided within the site. The development shall not



be occupied until the site has been laid out and constructed in general accordance with the approved plans.

**Reason:** In the interests of sustainable transport provision in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.

- 4 The construction of the estate roads serving the development including footways, verges and footpaths shall not be other than in accordance with the standard specification of the Highway Authority.

**REASON:** To ensure that a pavement and verge crossing is available for use when the development is completed thereby enabling safe and convenient access to and egress from the site in the interests of the safety of road users and pedestrians in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029

- 5 The accesses to the site shall not be constructed in such a manner as to reduce the effective capacity of any drain or ditch within the limits of the public highway.

**Reason:** In the interests of highway safety and the free flow of traffic in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.

- 6 Prior to first occupation, a plan will be required to be submitted detailing the provision and placement of 20mph zone signs at the entrance into the side roads of the development for the approval of the Local Planning Authority in consultation with the Highway Authority.

**Reason:** In the interests of highway safety and the free flow of traffic in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.

- 7 No structure, tree or shrub shall be erected, planted, or retained within the visibility splays exceeding, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway.

**Reason:** In the interests of highway safety and the free flow of traffic in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.

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**Planning Committee:** 18 June 2024

**Item Number:** 5

**Application No:** [W 23 / 0622](#)

**Town/Parish Council:** Leamington Spa  
**Case Officer:** Erin Weatherstone  
01926 456648 Erin.weatherstone@warwickdc.gov.uk

**Registration Date:** 05/06/23

**Expiry Date:** 31/07/23

**Pump Room Gardens, Dormer Place, Leamington Spa**

Installation of a CCTV camera and five metre column and associated works FOR  
Warwick District Council

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This application is being presented to Committee due to the number of objections and an objection from the Town Council having been received and due to the fact that District Council is the applicant.

**RECOMMENDATION**

Planning Committee are recommended to GRANT planning permission for the reasons set out in this report.

**DETAILS OF THE DEVELOPMENT**

Planning permission is sought for the erection of a new 5 metre free standing column to enable the installation of a CCTV camera.

**THE SITE AND ITS LOCATION**

The application site lies within the Town Centre of Royal Leamington Spa and Leamington Creative Quarter and forms a parcel of land set within the Pump Room Gardens which is identified as a designated area of Open Space in the NDP. The gardens are open in character and publicly accessible with footpaths connecting to Dormer Place to the North and the Parade to the North East. To the south the footpaths connect across York Bridge to other areas of Open Space within the Town.

The parcel of land forms part of the wider Grade II Spa Gardens Registered Park and Garden which comprises of a kilometre-long chain of riverside walks, gardens and parks, which run through the centre of Leamington Spa. The site also lies within the Conservation Area. To the east of the site lie Grade II listed buildings including the Bandstand and Royal Pump Room and Baths. To the north several Listed Buildings line Dormer Place.

The site lies within Flood Zone 3 and to the south of the application site lies the River Leam. The site also lies within the Coventry Safeguarding Zone, Article 4 HMO area and a Mineral Consultation Zone for Sand and Gravel.

**RECENT RELEVANT PLANNING HISTORY**

No recent relevant planning history.

## **RELEVANT POLICIES**

- National Planning Policy Framework
- Warwick District Local Plan 2011-2029
- SC0 - Sustainable Communities
- HS1 - Healthy, Safe and Inclusive Communities
- HS2 - Protecting Open Space, Sport and Recreation Facilities
- HS3 - Local Green Space
- HS6 - Creating Healthy Communities
- HS7 - Crime Prevention
- TCP1 - Protecting and Enhancing the Town Centres
- HE1 - Protection of Statutory Heritage Assets
- HE2 - Protection of Conservation Areas
- BE1 - Layout and Design
- NE4 - Landscape
- FW1 - Development in Areas at Risk of Flooding
- BE3 - Amenity
- CC1 - Planning for Climate Change Adaptation
- TR1 - Access and Choice
- NE1 - Green Infrastructure
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- NE3 - Biodiversity
- Royal Leamington Spa Neighbourhood Plan 2019-2029
- RLS3 - Conservation Area
- RLS8 - Protecting Local Green Space
- RLS15 - Canal and Riverside Development
- RLS16 - Royal Leamington Spa Town Centre
- RLS17 - Royal Leamington Spa Creative Quarter

## **SUMMARY OF REPRESENTATIONS**

### Royal Leamington Spa Town Council:

The Town Council appreciates the intention behind this application, but objects based on the visual impact on an important recreational and leisure space in the town centre. The Town Council would like to see opinions from Conservation, CAF, and Friends of the Pump Rooms as well as consideration of alternative, less intrusive, solutions (15/06/2023).

The Town Council has no comments to make on this application (11/01/2024).

### Environment Agency- Standard advice (12/04/2024).

The Gardens Trust- Welcome the reduction of the CCTV camera pole and acceptance of a less bulky base on a heritage design pole similar to others around the town. However, concerns raised regarding whether other sites were considered and reservations are raised about the position of the new pole as it will

be highly visible on any sight line from the Bandstand or Linden Way (16/04/2024).

#### Conservation Advisory Forum (CAF)

CAF considered that the structure was large and out of keeping. Whilst it was considered that safety was paramount it was considered that the column was extremely tall and utilitarian being an eyesore within the Gardens. It was recommended a smaller pole with a black finish, Victorian styling and dome camera would be more sympathetic and less intrusive. Concerns raised with the location, scale, colour and design and therefore CAF would not support proposal in this form (13/07/2023).

WDC Conservation Officer- No objection to the revised plans, however would ask that the colour finish (black) be shown on the plans (15/01/2024).

The significance of the Pump Room Gardens, as part of the wider Spa Gardens Grade II Registered Park and Garden, is partially derived from its openness and landscape qualities. Although the impact of the proposal has been mitigated with a more traditional design, lower height and located further south, some harm – albeit less than substantial – is still considered to arise to the significance of the designated heritage asset due to its visual impact across the park. In order to fully consider the public benefits versus harm balance, It would be useful if further information could be obtained from the agent as it is unclear as to: A) whether alternative locations have been considered, and; B) if there is a specific technical reason why the spot chosen is the only location suitable (15/05/2024).

In response to the justification from the Applicant the Conservation Officer considers that this provides sufficient evidence that other locations have been considered, with other locations unsuitable due to line of sight issues (16/05/2024).

Green Space Development Officer – Support and comments received in relation to flood risk, design matters and construction matters (16/01/2024 and 09/05/2024).

#### **Public Response** (summarised by the case officer)

10 letters of objection received (including from the Leamington Society) raising the following matters:

- Concerns regarding the level of reference to heritage assets with the submission;
- Impact on the setting of the Listed gardens, concerns with the height, siting and design;
- Recognition of safety issue but concerns regarding the justification; and
- Concerns regarding the siting and lack of consideration of alternatives.

12 letters of support (including from Warwickshire Police and Head of Community Safety and Security at the University of Warwick) raising the following matters

- The development will be beneficial for safety of the public;
- Currently there is a lack of evidence with respect to any incidents;
- There are concerns regarding an increase in issues in the area;
- To assist to help reduce the fear of crime for those who visit the area;
- To act as a deterrent for any Anti social behaviour; and
- The camera position has been considered to where images will not be distorted by street lighting.

Other non-planning matters were also raised.

## **ASSESSMENT**

### Background

The proposal has been amended during the course of the application and the proposed CCTV column has been re-positioned closer to the River Leam by approximately 12.5m. The height of the column has also been reduced to 5m and the design has been updated to a black column with a 'Heritage' design.

A Flood Risk Assessment has also been received to accompany the application.

### Principle of development

Planning permission is sought for the erection of a new CCTV column within the Pump Room Gardens. The Supporting Statement advises that the proposal has been submitted to help reduce the fear of crime, deter crime and help provide evidence, where required, and to enhance community safety. The submitted information also references the need identified for the development.

The site lies within an area of Designated Open Space, Town Centre and Creative Quarter.

In line with Paragraph 96 of the NPPF planning decisions should aim to achieve healthy, inclusive and safe places and beautiful buildings which, amongst other criteria, are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. Furthermore, paragraph 101 of the NPPF states that planning decisions should promote public safety and take into account wider security and defence requirements.

Policy SC0 relates to Sustainable Communities and seeks to ensure that proposals are of high quality and brought forward in a way which enables strong communities to be formed and sustained. In this regard this policy states that proposals should take into account of community safety, including measures to prevent crime.

Policy HS7 relates to Crime Prevention and states that the layout and design of development will be encouraged to minimise the potential for crime and antisocial

behaviour and improve community safety. This includes making provision for appropriate security measures, including lighting, landscaping and fencing as an integral part of developments.

Furthermore, Policy HS6 relates to Healthy Communities and states that proposals will be permitted provided that they address a number of key criteria, including the need to deliver health benefits to the community. Furthermore, Policy HS1, seeks to ensure that the potential for creating healthy, safe and inclusive communities will be taken into account when considering proposals. Policy HS1 continues to state that support will be given to proposals that contribute to a high-quality, attractive and safe public realm to encourage social interaction and facilitate movement on foot and by bicycle.

### Open space

In line with Policy HS2 development on open spaces will only be permitted in certain circumstances and Policy HS3 supports the principle of designating land as Local Green Space. The proposal will fall within an existing area of open space which is designated as a Local Green Space by NDP Policy RLS8. NDP Policy RLS8 states that development will not be supported on Local Green Spaces unless in very special circumstances.

By reason of the size, scale and type of development proposed it is not considered that the development will conflict with the spirit of this Policy as the development is for infrastructure and will not result in the loss of, or any reduction in the size or usability of, the open space.

### Town Centre

Policy TC1 relates to Town Centres and seeks to ensure that any proposals comply with Policies TC2- TC16, where applicable, and states that proposals for any of the main town centres will be permitted where they are of an appropriate scale in relation to the role and function of the town centre. Proposals are also required to reflect the character and form of the town centre. Officers are satisfied that the scale of the development will be appropriate to the role and function of the town centre. The impact of the development on the character and form of the town are assessed below.

NDP Policy RLS16 states that proposals in the Town Centre should address and contribute to several elements, where applicable. Due to the scale and nature of the use, it is not considered appropriate for the proposal to contribute to the improvements set out in NDP Policy RLS16.

### Creative Quarter

The site lies within the Royal Leamington Spa Creative Quarter. NDP Policy RLS17 relates to this designation and states that proposals will be supported which address, as appropriate, a number of criteria. Due to the type and scale of the development it is not considered appropriate for the proposal to deliver any of these criteria.

### Conclusion of Principle

Having regard to the above, the principle of the development is broadly considered to accord with the spirit of the aforementioned policies subject to no adverse environmental factors being raised.

Other material considerations are addressed below.

Impact on the Character of the Area and Heritage Matters (including impact on the Conservation Area, Listed Buildings and Registered Park and Garden) and character of the area

The application site lies within a sensitive location on a site which forms part of the wider Grade II Spa Gardens Registered Park and Garden which comprises of a Kilometre-long chain of riverside walks, gardens and parks, which run through the centre of Leamington Spa. The site also lies within the Conservation Area.

To the east of the site lie Grade II listed buildings including the Bandstand and Royal Pump Room and Baths. To the north several Listed Buildings lie along Dormer Place.

In line with paragraph 205 of the NPPF when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Furthermore, policy HE2 relates to conservation areas and officers need to consider whether a development will preserve or enhance the Conservation Area when considering the Planning (Listed Buildings and Conservation Areas) Act 1990.

Policy RLS3 relates to development in Conservation Areas and states that proposals must demonstrate attention to various criteria. This includes the character of the area in which it is located and its distinguishing features and how the development interfaces with and respects the significance of listed buildings and non-designated heritage assets. Policy RLS3 also seeks for proposals to demonstrate that attention is given to the protection of key views especially of landmark buildings, classical set pieces, parks and gardens, bridges, the rivers and canals at key gateways and along key thoroughfares, as identified in the Conservation Area Assessment. Furthermore, Policy RLS15 seeks to ensure proposals respect the heritage and setting of the canal, Canal Conservation Area or riverside area.

The application site lies to the east of The Civic Area character area, as identified within the Conservation Area Appraisal. This area is considered to be the gateway to the Parade. This is considered to form part of the historic core with the river crossing and interface between the green spaces of Jephson Gardens and the Pump Room Gardens. The Pump Rooms is identified as a principal building within this part of the Conservation Area.

The Spa Gardens include a kilometre long chain of riverside walks, gardens and parks, created between approximately 1814 and 1903 which are located at the centre of Leamington Spa. The application site lies within the original Pump Room Gardens which lie in the centre of the Spa Gardens and are bound to the north by Dormer Place and to the north-east by the Parade. These gardens are largely grassland with mature specimen trees. The Royal Pump Rooms is Grade II listed

and was extensively renovated with a baths extension in 1890. The bandstand was added in the late 19<sup>th</sup> century.

To the south of the application site lies York Bridge which is a footbridge which connects the centre of the south side of the Pump Room Gardens across the River Leam to York Promenade.

The area is open and flat in character and crossed by a number of footpaths with associated lighting, including a pedestrian entrance from York Bridge to the south (which crosses the River Leam). The area surrounding the gardens is predominantly tree lined with the central garden area laid as grass. The wider Pump Room Gardens include the Band Stand and, located closer to the road, the Pump Rooms. Other features within this area include ornate arches along the pedestrian walkway to the north, benches and to the west a planted area.

The application has been submitted with a Heritage Statement which considers that the column will be of a comparable height to the other similar structures within the park and the column will not obstruct views from within the park or obstruct wider views into the park.

In line with paragraph 135 of the NPPF decisions should ensure that development functions well and add to the overall quality of the area, is visually attractive and contributes to creating places that are safe, inclusive and accessible. This is reflected, in part, in Policy BE1 of the Local Plan which seeks to ensure that layout and design are sympathetic to the character of the area. The retention of trees which are of amenity value is also a key consideration outlined in Policy NE4 and paragraph 136 of the NPPF which recognises the importance that trees can make to the character and quality of an urban environment.

NDP Policy RLS15 relates to riverside development along the River Leam and states that development will only be supported in certain circumstances including where proposals maintain and open new views and vistas along the river and canal.

Planning permission is sought for a new CCTV column which is simple in design and proposed to be finished in black with detailing and a 'heritage' design. The camera will be mounted on the top of the post and will measure approximately 5m in height. With respect to the finish of the development officers consider that the final details of the finish and any associated infrastructure can be secured via planning condition.

The revised siting of the CCTV Column has been positioned closer to York Bridge towards the south of the gardens. Within the immediate area there is an absence of built form and the land is flat and open in character allowing views across the open space from the surrounding roads and pedestrian footpaths/areas.

Initially the Council's Conservation Officer considered that there is a clear public benefit, but raised concerns in relation to the potential visual impact of the initial submission as the development is set within the Pump Room Gardens located within the immediate vicinity of several Grade II listed buildings. It was recommended that the column be painted black to mitigate the likely visual impact and be located closer to York Bridge.



In response to the amended development the Council's Conservation Officer considers that whilst the impact of the proposal has been mitigated with a more traditional design, lower height and located further south, there is still considered to be some harm. The harm is considered to arise to the significance of the designated heritage asset due to the visual impact of the scheme across the park. This is considered to represent 'less than substantial harm'.

In response to the development the Conservation Advisory Forum considered the proposal and could not support the proposal due to concerns with the scale, colour and design. It was suggested that a far smaller pole which is black in colour and has Victorian styling, with a dome camera, would be more sympathetic and less intrusive. These comments were received prior to the amendments.

The Town Council initially objected to the application based on the visual impact however later raised no comments to the amendments. Concerns had been raised during the consultation regarding the impact of the development on heritage assets with concerns regarding the height, siting and design of the proposal.

The Gardens Trust has responded to the application and welcome the reduction of the camera pole and the less bulky base design. However, the Gardens Trust has raised concerns about whether alternative sites have been considered and concerns regarding the revised siting which will still be highly visible on any sight line from the Bandstand or Linden Way. The Garden Space Development Officer has supported the application subject to clarification. A number of Third Party representations have been received in response to the development including representations of support and objection.

Policy HE1 states that where a development would lead to less than substantial harm to a heritage asset this harm will be weighed against the public benefits of the proposal which is in line with paragraph 208 of the NPPF.

Reference is made within the Heritage Statement to the security benefits for members of the public who visit the open space. The Heritage Statement refers to the CCTV service and operations associated with the Applicant, as the District Council.

In response to the development the Gardens Trust and Conservation Officer advised it was unclear if alternatives had been considered and if there was a specific technical reason why the location was chosen.

A further justification has been received from the Applicant and officers and the Conservation Officer consider that sufficient evidence that other locations have been considered and discounted due to line of sight issues has been provided.

In light of the above the proposal is considered to result in 'less than substantial harm' to the setting and special interest of the Spa Gardens Registered Park and Gardens and Conservation Area by reason of the visual impact of the scheme across the park by reason of the size, design and siting. The Conservation Officer has not advised that the development will give rise to harm to the setting of the Bandstand or Pump Rooms based on the proposal submitted and relationship with these heritage assets.

The proposal will give rise to public benefits in the form of helping to reduce the fear of crime, deter crime and help provide evidence, where required, and to enhance community safety. Based on the justification provided, which identifies that alternative sites have been considered as part of the submission, officers consider that the public benefits identified with the scheme will outweigh the 'less than substantial' harm identified to the Spa Gardens Registered Park and Gardens and Conservation Area.

The proposal is therefore considered to accord with Policies HE1 and HE2 and NDP Policies RLS3 and RLS15 in this regard and the policies set out in Chapter 16 of the NPPF.

In coming to this decision officers have had regard to the duties set out in the Planning (Listed Buildings and Conservation Areas) Act 1990, which state that the character or appearance of the conservation area should be preserved or enhanced and that special regard should be given to the desirability of preserving Listed Buildings including its setting or any features of special architectural or historic interest which it possesses.

Whilst the design will reflect other street furniture and a condition can secure the proposed finish, it is considered the proposal will give rise to some visual harm to the character of the area, by reason of the siting and height of the new CCTV, having regard to Policies BE1 and NDP Policy RLS15. However, as with the heritage assessment, it is considered that this harm is outweighed by the public benefits that have been identified.

#### Flood Risk and Water Environment

The application site lies in Flood Zone 3 which has the highest probability of flooding. To the south of the site lies the River Leam located approximately 28m from the development.

In line with paragraph 165 of the NPPF inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Paragraph 174 of the NPPF states that some minor development and changes of use should not be subject to the sequential or exception tests but should still meet the requirements for a site-specific flood risk assessment.

The proposal is considered to represent minor development and falls within the water compatible vulnerability classification as set out in Annex 3 in the NPPF as the proposal relates to amenity open space and essential facilities. The development is not considered to result in a change in how the land is used, including any increased activities or frequency of visitors.

Paragraph 173 of the NPPF states that Local Planning Authorities should ensure that flood risk is not increased elsewhere. The paragraph continues to state that development should only be allowed in areas at risk of flooding where it can be demonstrated that several criteria can be met, where applicable, including a need for the development to be appropriately flood resistant and resilient and any residual risk can be safely managed.

The application has been submitted with a comprehensive Flood Risk Assessment (FRA). The report recommends several flood mitigation measures. The

recommendations include ensuring that the column housing is waterproof to ensure no water damage occurs to the internal wiring or where this cannot be achieved that the access door is raised to 50.57 mAOD. In addition, the FRA recommends that suitable foundations and anchors should be considered including waterproofing of the connection cables as there is a risk of groundwater flooding. Finally, ongoing management and maintenance is recommended with the estimated lifespan of the development estimated at 10-20 years.

In response to the development the Environment Agency has provided standard advice. Officers consider that the recommendations of the Flood Risk Assessment can be secured via planning condition.

The development is not considered to give rise to an increase in flooding elsewhere or introduce harm to flooding subject to conditions having regard to paragraphs 165 and 173 of the NPPF, Local Plan Policies BE1, SC0 and FW1 and NDP Policy RLS15 in this regard.

### Residential Amenity

The application site has no close neighbouring dwellings. The nearest dwellings are located to the south on the opposite side of the River Leam on York Road and Avenue Road and to the north along Dormer Place. These dwellings are all located more than 80m away from the development at the closest point.

By reason of the siting, design and distance between the development and neighbouring properties the proposal is not considered to result in an adverse overlooking, overbearing or overshadowing impact on the amenity of the neighbouring properties.

Having regard to the above, the development is considered to accord with Policy BE3 and paragraph 135 of the NPPF in this regard.

### Climate change and mitigation

In line with Policy CC1 all development should be designed to and adapt to future impact of climate change be resilient to, and adapt to the future impacts of, climate change including through layout, building orientation, construction techniques, materials/ natural ventilation, optimising multi-functional green infrastructure and minimising vulnerability to flood risk. This is echoed in Policy SC0 and BE1.

The Council's Net Zero Carbon Development Plan Document (DPD) has been adopted and carries full weight for decision-taking. Based on the scale, type and design of the development officers consider that the development will be acceptable in terms of flood risk and will not require an Energy Statement having regard to the DPD requirements.

### Other matters

By reason of the size, design, siting and nature of the development it is not considered to give rise to any adverse impacts in relation to the other constraints in relation to ecology, highways and parking/access having regard to Policies TR1,

TR3, NE1, NE2 or NE3 and NDP Policies RLS15 and the duties set out in The Natural Environment and Rural Communities Act (2006).

## **CONCLUSION AND PLANNING BALANCE**

Planning permission is sought for the erection of a new 5 metre free standing column to enable the installation of a CCTV camera.

The principle of the development is broadly considered to accord with the spirit of the above mentioned policies subject to no adverse environmental factors being raised.

Subject to conditions and notes the development is not considered to give rise to any environmental harm in relation to flood risk, residential amenity, ecology, highways matters or climate change and mitigation having regard to Policies BE1, SC0, FW1, TR1, TR3, NE1, NE2 or NE3 and NDP Policies RLS15 and the duties set out in The Natural Environment and Rural Communities Act (2006).

The development is considered to result in 'less than substantial harm' to the setting and special interest of the Spa Gardens Registered Park and Garden and Conservation Area by reason of the visual impact of the scheme across the park as a result of the size, design and siting of the CCTV development.

Furthermore, the proposal is considered to give rise to some visual harm by reason of the height and siting of the development regard to Policies BE1 and NDP Policy RLS15.

The development is considered to provide public benefits, which are considered to outweigh the 'less than substantial harm' identified. The proposal is therefore considered to accord with Policies BE1, HE1 and HE2 and NDP Policies RLS3 and RLS15 in this regard and the policies set out in Chapter 16 of the NPPF.

When considering all the relevant material considerations within the planning balance officers consider that the public benefits of the development, namely the security benefits, will outweigh the harm identified in relation to heritage and visual impacts on the character of the area.

The development is therefore considered to represent a sustainable form of development and it is recommended that planning permission be granted.

## **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 (dated 02 January 2024) and approved drawing(s) :

- General Arrangement Plan (4206-47 dated 21/2/18) received by the Local Planning Authority on 13/12/2023; and
- Data Sheet- MIC IP starlight 7100 received by the Local Planning Authority on 26/04/2024.

**Reason:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.

3 No development shall be carried out above slab level unless and until details and specifications of the external facing materials to be used have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.

Reason: To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the locality and sensitive heritage setting in accordance with Policy BE1, HE1 and HE2 of the Warwick District Local Plan 2011-2029.

4 The development shall be carried out in accordance with the recommendations of the Flood Risk Assessment by FloodSmart Plus (reference 81698R1) dated 15-03-2024.

Reason: In the interests of Flood Risk, in accordance with Policy FW1 of the Warwick District Local Plan 2011-2029.

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**Planning Committee:** 18 June 2024

**Item Number:** 6

**Application No:** [W 23 / 0739](#)

**Town/Parish Council:** Baddesley Clinton  
**Case Officer:** Jack Lynch

01926 456642 Jack.lynch@warwickdc.gov.uk

**Registration Date:** 22/05/23

**Expiry Date:** 21/08/23

**Grand Union Farm, Rising Lane, Baddesley Clinton, Solihull, B93 0FJ**

Proposed camping site including all associated ancillary site development works  
FOR Mr George Lympers

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This application is being presented to Planning Committee due to an objection from the Parish Council.

**RECOMMENDATION**

Planning Committee is recommended to grant planning permission, subject to the conditions listed at the end of this report.

**DETAILS OF THE DEVELOPMENT**

The applicant seeks full planning permission for a change of use from agricultural land to a small-scale eco-retreat camping site with 15 pitches and the provision of a mobile welfare unit to provide toilet and shower facilities. The camping pitches are proposed to be spread around the site. No permanent buildings are proposed, and no removal of trees or habitat is proposed.

**THE SITE AND ITS LOCATION**

The application site is a wooded area surrounding an artificially installed pond adjacent to Rising Lane within the West Midlands Green Belt. The site is located to the North east of Lapworth approximately 250 metres from the nearest run of dwellings and 1.2 km from Lapworth train station. The access of the site is just over 100 metres to the east of the canal network.

**PLANNING HISTORY**

No relevant planning history

**RELEVANT POLICIES**

National Planning Policy Framework

Warwick District Local Plan 2011-2029

- DS5 - Presumption in Favour of Sustainable Development

- PC0 - Prosperous Communities
- CT5 - Camping and Caravan Sites
- SC0 - Sustainable Communities
- DS18 - Green Belt
- BE1 - Layout and Design
- BE3 - Amenity
- TR1 - Access and Choice
- TR3 - Parking
- FW4 - Water Supply
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- NE3 - Biodiversity
- NE4 - Landscape
- NE5 - Protection of Natural Resources

#### Guidance Documents

- Parking Standards (Supplementary Planning Document)
- Warwickshire Landscape Guidelines
- Net Zero Carbon (Supplementary Planning Document)
  - Policy NZC4

### **SUMMARY OF REPRESENTATIONS**

**Baddesley Clinton Parish Council** – Objection. Concerns include: Inappropriate development in the Green belt, impact to biodiversity, increased traffic and noise disturbance.

**WCC Landscape** – Objection. Concerns include associated works being out of character with the relatively undeveloped rural nature of the landscape setting.

**WCC Highways** – No objection.

**Warwickshire Fire and Rescue Service** – No objection, subject to imposition of condition regarding fire hydrants and water supplies.

**Environment Agency** – No objection. They note that they have no reason to believe the watercourse for drainage is not a flowing watercourse as opposed to a periodically dry ditch and would therefore be appropriate.

**WDC Safer Communities, Leisure and Environment** – No objection.

**WDC Tree Officer** – No objection, subject to the imposition of a condition requiring the submission a tree protection plan.

**WDC Conservation** – Neutral comment.

**National Trust** – Objection. Concerns include, the proposal being out of character with the surrounding rural landscape, increased noise and light levels and risk of fires.

## **Public Response –**

One objection comment. Concerns include: Contrary to policy CT5, Impact to highway safety, noise concerns.

One support comment. Points include: Recreational and educational benefits of proposal.

## **ASSESSMENT**

### Principle of development

Policy CT5 of the Warwick District Local Plan states that Camping and caravan sites for holiday and recreational use will be permitted where they can be satisfactorily integrated into the landscape without detriment to its character, are in a location accessible to local facilities and would not generate significant volumes of traffic. Any buildings required must be essential and ancillary to the use of the land. The conversion of appropriate rural buildings will be permitted subject to compliance with other policies in the Plan. New buildings may be acceptable outside the green belt where it can be demonstrated that existing buildings cannot be utilised in preference and where they are of a design and scale appropriate to the area. The policy goes on to state that within green belt areas, camping and caravan sites and associated buildings will be considered inappropriate development.

The proposal is for holiday and recreational use which, by its nature and design integrates well into the existing landscape. WCC Landscape have objected to the scheme on the basis that they believe it is “out of character with the relatively undeveloped rural nature of the landscape setting”. Officers have considered these comments, however, in this instance, officers consider that camping by its nature, is in a rural landscape, and the proposal will be sympathetically and sensitively sited within the landscape and will be screened from the street with hedgerows. The proposal will serve to protect and enhance the surrounding landform and landscape and its design and layout incorporate and respect the existing landscape features and characteristics. Furthermore, the proposal will be within relatively close proximity to nearby facilities and as such, officer deem the location appropriate in this instance.

Accordingly, the principle of development is considered acceptable in accordance with Local Plan Policy CT5, subject to an assessment being made of the other relevant planning considerations set out below.

### Green Belt

The NPPF, Paragraph 154, states A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt with exceptions to this being, the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.



Policy DS18 of the Warwick District Local Plan states the Council will apply national planning policy to proposals in the green Belt. Para 154 of the NPPF states certain forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes material changes in the use of land, within a number of examples given, including use for recreation.

The proposed use of this site will be for a small eco – retreat camping site. This use is considered to be outdoor recreation. The proposal includes the siting of 15no pitches as well as the siting of a temporary mobile welfare unit and formalising the existing hard standing to a car park. The tents will not be erected permanently on the site throughout this period, it is the expectation that most users will bring their own tent for the limited period, the pitches do not contain any raised platforms. The welfare unit is moveable and does not require planning permission. It is considered that the proposed pitches do not have a detrimental impact on the openness of the Green Belt and do not conflict with the purposes of including land within it.

Accordingly, the proposal is considered to be in accordance with the NPPF and Policy DS18 of the Local Plan.

#### Impact on neighbouring / residential amenity

Policy BE3 states that development will not be permitted that has an unacceptable adverse impact on the amenity of nearby uses and residents. At the same time, the policy also requires development to provide acceptable standards of amenity for all future users and occupiers of the development.

The application site lies to the south of Rising Lane between the canal and Netherwood Lane. The site is surrounded by agricultural fields and the access to the site is approximately 250 metres from the nearest dwellings within the run of development in Lapworth. The site is surrounded by mature hedges and trees.

Safer Communities, Health and Community Protection have been consulted and offered no objection to the proposed scheme. The site is at an appropriate distance from neighbouring dwellings and officers are satisfied that the proposed scheme will not generate harm to the amenity of neighbouring uses.

Therefore, the proposed works accord with Policy BE3 subject to conditions.

#### Visual impact / impact on landscape

Policy BE1 requires new development to positively contribute to the character and quality of its environment through good layout and design. Policy NE4 broadly supports the above, stating that new development should positively contribute to landscape character.

No permanent facilities are proposed. Neither will there be any loss of trees or hedgerows, that currently act as a frontage to the site, therefore the site will

largely not be visible from Rising Lane. Access onto the field would be via an existing break in the roadside hedge that follows the internal access road.

WCC Landscape have objected to the proposed scheme highlighting that the proposed works are out of character with the relatively undeveloped rural nature of the landscape setting. Officers have considered Landscapes objection; however, the proposed use and associated works will not be visually intrusive, rather it will be sympathetically and sensitively sited within the landscape and will be screened from the street with hedgerows and vegetation. The proposal will serve to protect and enhance the surrounding landform and landscape and its design and layout incorporate and respect the existing landscape features and characteristics. The lighting proposed as part of the scheme is sensitive to the surrounding natural landscape. Solar lights and tea lights will be located at each pitch and by walkways to provide appropriate light while respecting the natural surroundings. A condition has been attached requiring the submission of specific lighting details (including details of hours of operation) to be submitted to and approved in writing by the Local Planning Authority.

Accordingly, officers are satisfied that the development is acceptable in general design and layout terms and as such accords with Policies BE1 And NE4.

#### Access and parking / Highway safety

Policy TR1 requires development to provide safe, suitable and attractive access routes for all road users while policy TR3 requires development to make provision for parking which complies with the parking standards set out in the most recent Parking SPD.

No new site access is proposed, as the existing field access from Rising Lane will be used. This access road already serves the site.

The objections from the Parish Councils and public objectors are noted. The imposition of conditions, including a temporary permission should permission be granted, will allow for the continued monitoring of the effect of the proposal.

The Highways Authority have been consulted and raise no objection to the proposal.

Officers are therefore satisfied that the development will in no way be detrimental to highway safety and the parking provisions are equally acceptable. As such the development accords with Policies TR1 and TR3.

#### Ecological impact and biodiversity

Policy NE2 requires designated areas and species of national and local importance to be protected for biodiversity and geodiversity. Policy NE3 requires development not to lead in any losses to biodiversity and to avoid any negative impacts on existing biodiversity.

The County Council Ecologist has been consulted and following the submission of the Preliminary Ecological Assessment, they are satisfied that the proposal is acceptable subject to the imposition of a Biodiversity Management Plan and Protected Species Method Statement Condition, as well as the imposition of the relevant informative notes. The applicant has submitted a Biodiversity metric as part of this planning application that demonstrates a biodiversity net gain. It should however be noted that in this instance the requirement for sites to demonstrate a biodiversity net gain of 10% is not applicable as the application was received prior to 12 February 2024.

Officers are therefore satisfied the development is acceptable in this regard and accords with Policies NE2 and NE3.

### Sustainability

As required by the Council's Net Zero Carbon Development Plan Document (DPD) Policy NZC4, an Energy Statement has been submitted which demonstrates a consideration to sustainable construction and design in accordance with Local Plan Policy CC1 – Planning for Climate Change Adaptation. The applicant has demonstrated how parts of the requirements of the policy have been complied with and included justification for why some measures have not been incorporated.

The proposed mobile welfare unit will be connected to a portable lithium electric lithium battery storage system and fitted with solar panels.

The proposal is therefore considered to comply with DPD Policy NZC4.

### Other matters

#### *Fowl and Sewerage*

All fowl water from the mobile welfare unit leads to a Marsh Industries Ensign 16PE (population equivalent) sewage treatment plant and passes through a second aeration chamber, where it is treated to remove the dissolved constituents. The bacteria then flows to a final settlement chamber and is discharged via a polylok filter.

Treated water will then be discharged into a watercourse trench on the west site of the car park. According to the records the Environment Agency holds, this watercourse is already being discharged to by the National Trust discharge consent T-11-36353-T at Baddesley Clinton House. The Environment Agency have highlighted they have no reason to believe this is not a flowing watercourse as opposed to a periodically dry ditch. The discharge consent for the National Trust refers to the watercourse as a tributary of the Cuttle Brook.

### **SUMMARY / CONCLUSION**

The principle of development is considered acceptable in accordance with Policies CT5 and DS18 of the Warwick District Local Plan 2011-2029. Officers are satisfied there would be no harm to neighbouring amenity nor would there be any harmful

impacts on future users of the site as a result of noise. There would be no detriment to highway safety; the access is considered safe and suitable in the proposed location and the appropriate amount of parking is proposed. For the above reasons, it is recommended that planning permission be approved, subject to the conditions listed below.

**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 (including ground clearance works) shall not commence until a protected species method statement for great crested newts, badgers, nesting birds and hedgehogs (to include timing of works, toolbox talk, ecologist supervision of initial vegetation clearance, procedure if protected species are found 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 ensure that protected species are not harmed by the development

- 3 Prior to the commencement of the development hereby approved (including all preparatory work), a sufficiently detailed and proportionate Tree Protection Plan and Arboricultural Method Statement, together referred to as the scheme of protection, that will detail how all the retained trees (both within the site and outside the site where they might exert and influence upon, or be impacted by, the development) are to be protected from harm during the development shall be submitted to and approved in writing by the Local Planning Authority. The Tree Protection Plan should be overlaid upon the approved plan of the development. The development thereafter shall be implemented in strict accordance with the approved scheme of protection.

**Reason:** In order to protect and preserve existing trees within the site which are of amenity value in accordance with Policies BE1 and NE1 of the Warwick District Local Plan 2011-2029.

- 4 The development hereby permitted shall not be occupied 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 approved scheme shall be implemented in full prior to occupation of any development to the satisfaction of the Local Planning Authority.

**Reason:** In the interests of Public Safety from fire and the protection of Emergency Fire Fighters.

5 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan (submitted on 22/05/2023) and approved drawings:

-Proposed Plans And Elevations revision V2, and specification therein, submitted on 22/05/2023.

-MARSH ENSIGN 16 PE (SIXTEEN PERSONS) GRAVITY OUTLET.EN 16 PE STD-B, and specification therein, submitted on 04/07/2023, and

-Proposed Block Plan Revision V4 and specification therein, submitted on 24/05/2024

Reason: For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.

6 The development hereby permitted (including site clearance) shall not commence until a Biodiversity Management Plan (BMP) to include a detailed schedule of habitats and protected species mitigation, and biodiversity enhancement measures including habitat management and long-term monitoring, to result in a biodiversity net gain (to include location of measures, installation timescale, timing of works and species lists for proposed planting has been submitted to and approved in writing by the Local Planning Authority. Such measures should be shown on all applicable annotated site plans and elevations, such approved mitigation and enhancement measures shall thereafter be implemented in full and maintained in strict accordance with the approved details in perpetuity.

**Reason:** To enhance the nature conservation value of the site and ensure biodiversity net gain in accordance with NPPF, ODPM Circular 2005/06.

7 No lighting or illumination of any part of any building or the site shall be installed or operated unless and until details of such measures (including details of hours of operation) have been submitted to and approved in writing by the Local Planning Authority and such works, and use of that lighting and/or illumination, shall be carried out and operated only in full accordance with those approved details. **Reason:** To ensure that any lighting is designed and operated so as not to detrimentally affect the amenities of the occupiers of nearby properties in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.

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**Application No:** [W 23 / 1597](#)

**Town/Parish Council:** Lapworth

**Case Officer:** Adam Walker

01926 456541 adam.walker@warwickdc.gov.uk

**Registration Date:** 22/02/24

**Expiry Date:** 18/04/24

**Former Timber Yard, Old Warwick Road, Lapworth, Solihull, B94 6BA**

Retrospective planning application for the retention of portable building, 3no. steel containers, 2no. freestanding canopies and 2no. fixed canopies, timber fencing and change of use from Sui Generis to Use Class F2(c) (outdoor fitness business) FOR D Wilson Property Holding Group Ltd

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This application is being presented to Committee as over five public representations have been received in support of the application and it is recommended for refusal.

**RECOMMENDATION**

The application is recommended for REFUSAL for the reasons set out at the end of this report.

**DETAILS OF THE DEVELOPMENT**

This is a retrospective planning application for the retention of the existing portable building, steel containers, canopies and fencing and change of use from Sui Generis to Use Class F2(c) (outdoor fitness business).

The existing business is known as The Gym Shed and involves the operation of an outdoor gym. The business provides personal training sessions and organised classes and has been in operation since around the summer of 2022.

The development comprises of:

- Small portable cabin (7 square metres) serving as a WC and kitchenette and located at the north western end of the site.
- Two shipping containers that serve as a combined administrative space and facility for gym equipment. A larger container (27 square metres) is located towards the north western end of the site and smaller container (10 square metres) is located in the south eastern end of the site. Both containers lead out onto a timber deck that has a fixed timber canopy over.
- Area of astro turf situated in between the shipping containers/decking that provides space for open air training sessions.

- Two freestanding canopies that are erected over part of the astro turf to provide protection to users of the facility during inclement weather.
- 2m featheredge timber fencing to part of the site boundary with Old Warwick Road. Note: The application proposes to amend the existing fencing to this boundary; the extent of the fencing to the roadside is to be reduced by approximately 35m and the height of the retained fencing lowered from 2.4m to 2m and painted dark brown. Planting is proposed adjacent to the shipping containers and portable cabin.
- Low level timber retaining wall to canal side boundary.

Vehicular access to the site is from Old Warwick Road, with the proposed parking for the facility being within the existing lay-by adjacent to the site.

### **THE SITE AND ITS LOCATION**

The application site was previously used in connection with a timber merchants. Supporting information indicates that the Applicant purchased the timber merchant site in September 2022 and divided it into two separate businesses; the north western part continues to operate as a timber yard (see relevant planning history below) and the south eastern part now operates as a fitness business.

The gym site comprises of a rectangular shaped parcel of land adjacent to Old Warwick Road. It includes a section of the highway lay-by adjacent to the gym and extending for a distance to the south east.

The site is generally flat and is bound by Old Warwick Road along its frontage and by the North Stratford Canal and towpath to the rear. The canal towpath sits above the level of the application site and is separated by trees and other vegetation along the boundary. An area of trees lie to the site's south eastern boundary.

The site lies within the West Midlands Green Belt and is located in between Kingswood and Hockley Heath. The surrounding area is generally characterised by agricultural land with ribbon development along the roadsides. There are some houses a short distance from the site along Old Warwick Road and Lapworth Cricket Club exists towards the south east.

The application site falls within the Canal Conservation Area.

### **RELEVANT PLANNING HISTORY**

#### Current:

W/23/1595 - Retrospective planning application for the retention of detached timber building and timber fences, proposed partial demolition of existing building and continuation of existing use for a timber business (Sui Generis) - Undetermined (under consideration by Officers)

Planning history associated with the historic timber yard use (Curtis Woodyard):

W/02/1479 - Retention of building to provide office, mess room, and toilet facilities (retrospective) – Approved

W/97/0940 - Retention of a single storey building to provide replacement office, mess room and toilet facilities (Variation of Condition 1 of W920637) – Temporary permission approved

W/92/0637 - Erection of a single storey building to provide replacement office, messroom and toilet facilities - Temporary permission approved

Enforcement:

ENF/0158/22 - Erection of timber fence adjacent the highway, erection of a timber building, siting of steel containers & canopies on the land & operation of a fitness business from the land - The current planning application that is now under consideration (W/23/1597) has been submitted following investigation of ENF/0158/22.

**RELEVANT POLICIES**

- National Planning Policy Framework

Warwick District Local Plan 2011-2029

- DS5 - Presumption in Favour of Sustainable Development
- DS18 - Green Belt
- CT1 - Directing New Meeting Places, Tourism, Leisure, Cultural and Sports Development
- SC0 - Sustainable Communities
- BE1 - Layout and Design
- BE3 - Amenity
- HS1 - Healthy, Safe and Inclusive Communities
- HS6 - Creating Healthy Communities
- HS7 - Crime Prevention
- HE1 - Protection of Statutory Heritage Assets
- HE2 - Protection of Conservation Areas
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- NE3 - Biodiversity
- NE4 - Landscape
- NE5 - Protection of Natural Resources
- TR1 - Access and Choice
- TR2 - Traffic generation
- TR3 - Parking
- FW1 - Development in Areas at Risk of Flooding
- FW2 - Sustainable Urban Drainage



## Guidance Documents

- Air Quality & Planning Supplementary Planning Document (January 2019)
- Parking Standards (Supplementary Planning Document- June 2018)

## **SUMMARY OF REPRESENTATIONS**

**Lapworth Parish Council:** Neutral - the Parish Council neither objects to or supports the application. The Parish Council does however consider that the fencing is too high for this location.

**WDC Arboricultural Officer:** No objection

**WDC Conservation Officer:** No objection. The previous concerns raised have been addressed through revisions to the application proposals, specifically in relation to the amendments to the existing fencing and proposed soft landscaping.

**WDC Environmental Protection:** No objection subject to conditions restricting the installation of speakers for the purpose of amplified voice and/or music and to limit the opening hours (no customers permitted to be on the premises other than between 0600 hours and 2100 hours, Monday to Friday, and between 0600 and 18:00 on Saturdays).

**Canal and Rivers Trust:** The adjacent canal is designated as a Conservation Area and also a Local Wildlife Habitat. It is noted that the scheme involves the removal of some trees from the canal facing boundary and it is unclear whether these have already been removed. It is also noted that it is indicated that as the existing vegetation to this boundary is sparse in places it could be supplemented by additional planting. It is considered that it would be appropriate to provide replacement/new planting along the canalside boundary to offset the removal of existing trees and help to maintain the role of the canal corridor as a wildlife habitat. New planting could also reduce the visual impact on the Canal Conservation Area. Suitable planting could be secured by condition. It is unclear if external lighting is proposed but it appears that this is likely in order to facilitate year-round use of the open air gym. It is important that any lighting is designed to minimise light spill onto the adjacent canal as this could affect nocturnal wildlife. Recommend that a condition is imposed on any permission requiring details of the lighting so that the potential impacts on nocturnal wildlife can be assessed.

**Inland Waterways Association:** No comments received

**Lead Local Flood Authority:** No objection.

**Local Highway Authority:** Object. The following issues have been identified:

- Inconsistency with the red line boundaries on the submitted plans

- Clarification required in relation to the use of some of the land to the west of the site that has had a fence erected on the kerb line and a gravel base laid with a gated entrance.
- The boundary to the application site (which includes a wooden fence, a gated vehicular access and two pedestrian gated accesses) has been erected directly onto the kerbs at the edge of the public highway. Any future maintenance of the kerbs will therefore prove very difficult and the layout does not accord with Warwickshire County Council's highway construction specification in this regard.
- There is a historical dropped kerb access which has had the fence erected over it and is no longer in use; as this access is no longer in use as part of the development, a full height kerb will need to be reinstated.
- The pedestrian gated access to the east of the vehicular access has the full height kerb in the entrance, creating a trip hazard for pedestrians and preventing access for disabled users; this should be rectified.
- The location of both pedestrian gates do not provide any pedestrian visibility, so if a car is moving within the lay-by and a pedestrian is leaving the gate, regardless of the fact that the speed of vehicles will be low, there could be potential conflict.
- A wooden ramp is located across the layby opposite the pedestrian gated access located adjacent to the vehicular access; this is not acceptable as this is part of the public highway for the benefit of the wider public using the highway to park, therefore the wooden ramp must be removed to prevent highway safety issues for pedestrians and any vehicles pulling onto the layby.
- The applicant is not entitled to place signs within the layby requesting vehicles to 'slow down'. The layby is for the benefit of the general public using the public highway and the sign must be removed.
- A lamp (wattage unknown) over the Gym Shed signage overhangs the highway and may create an element of distraction to drivers.
- It appears that a vehicular access from the lay-by is proposed. Swept path details are required to demonstrate that vehicles can enter/exit the site in a forward gear together with visibility splays along B4439 Old Warwick Road. However, there are concerns that the vehicle access point(s) would be served via the existing layby. Cars using the layby for parking will impact on visibility splays from the access for drivers of vehicles attempting to re-enter the public highway from these points. Furthermore, cars parked either side of the vehicular access will prevent a car from pulling off the public highway and entering the access if the gate is closed, thus raising highway safety concerns. There are therefore concerns with the proposal for a vehicular access from the lay-by although if this is not provided, the facility will be reliant upon the layby for its parking provision.
- The layby is publicly maintained for use by general users of the highway users and is not necessarily parking provision for a private business use.
- A further concern with the development proposals are that drivers of vehicles on leaving the premises may attempt to 'u' turn across the carriageway or at the crossroads junction immediately to the north of the site in order to travel back in the direction they arrived. Whilst this may not have been an evident issue with the timber yard, the two uses cannot be directly compared with the gym opening later into the evening than the timber yard would have been operating.

- **Transport Statement:** The hours of operation for the fitness gym are included within the submitted Transport Statement. At the time of visiting the site (Thursday 18th April) the fitness gym was operational, with one person in the gym and an additional person arriving. The proposed hours of operation should be amended accordingly. The Transport Statement should also be amended to establish vehicular movements associated with the facility. The number of employees should also be provided.
- The layby provides a total of approximately 24 parking spaces, 14 from the southern end of the fitness gym and beyond this there is space for a further 10 vehicles. The data above suggests that a maximum of 18 people could attend the fitness gym (this may change once the operational figures are clarified). The Highway Authority have concerns that the layby is being used as a 'private parking' provision for the business rather than for its purpose, and whilst it has been used to enable the timber yard to operate, those visiting the timber yard would be unlikely to be spending 45 - 60 minutes at a time. Also, a historical search of a mapping system has shown a maximum of 7 vehicles in the layby at any one time, unlike the potential for 18 parked vehicles.
- A Stage 1 RSA will be required to be submitted in respect of the proposed layout.

**WCC Ecology:** No objection subject to conditions to secure a Construction Environmental Management Plan (CEMP: Biodiversity) and for full details of the external lighting.

**Public response:** 32 representations in support of the application have been received. A summary of the comments is provided below.

- The gym supports the local community and many people use and enjoy this facility
- Valuable resource to our semi-rural community; no other local facilities exist so it's of great benefit
- It is great to have local businesses within the parish, rather than driving an extra half an hour to gyms in Solihull or Warwick
- It offers good facilities for all ages
- More sporting facilities like this are needed in Lapworth to help tackle obesity
- Encouraging people to keep fit outdoors in the fresh air can only be a good thing; the facility improves the physical and mental health of those attending
- Facility is an improvement on the previous timber yard use; the timber yard was more dangerous in terms of vehicle movements and the gym is a visual improvement for the area
- Taken a semi derelict site and made it appealing to local residents
- It is a good use of space / brownfield site
- The business is ideally located, serving small surrounding villages
- The gym has built-up a good reputation in the area
- The gym has provided support to Lapworth Cricket Club
- The site is easily accessible along the canal towpath
- Provides employment
- The gym has brought additional business to other local businesses in the area
- Visually unintrusive design that fits in with its natural surroundings

## **ASSESSMENT**

### **Procedural matter - Description of development**

The Applicant describes the development as an outdoor fitness business falling within Use Class F2(c). Having considered the application in detail, Officers consider that the proposed use is a hybrid of an outdoor and indoor fitness business. It is evident from the Applicant's own social media accounts that some fitness activities take place inside the double shipping containers where gym equipment is kept and the layout of this area and the nature of some of the equipment strongly suggest that it would serve as an indoor training space. Moreover, the patio areas with fixed canopies over form an extension of the shipping containers and these are considered to be more akin to an indoor use rather than a true outdoor use. It is nevertheless recognised that a significant proportion of the fitness activities take place within an outdoor environment on the astroturf.

Indoor sport facilities fall within Use Class E(d). It is therefore considered that the proposed use is a hybrid of F2(c) and E(d).

### **Principle of development**

The principle of development is twofold; firstly the principle of the proposed development within the Green Belt and secondly the principle of new sports development/community use within this location.

#### Green Belt

##### *Policy context*

The site lies within the West Midlands Green Belt. Paragraph 142 of the NPPF states that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Paragraph 143 of the NPPF identifies the five purposes of the Green Belt, which are:

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Paragraph 152 of the NPPF goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in

very special circumstances. Paragraph 153 states that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Paragraph 154 of the NPPF states that local planning authorities should regard the construction of new buildings as inappropriate in the Green Belt. It does however identify a number of exceptions to this; these exceptions include:

- The provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport or outdoor recreation, as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
- The partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development.

Paragraph 155 of the NPPF identifies certain other forms of development that are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes material changes in the use of land, such as changes of use for outdoor sport or recreation.

Policy DS18 of the Local Plan states that the Council will apply national planning policy to proposals within the Green Belt

Openness is not defined within the NPPF but is generally considered to mean an absence of development. Case law has established what factors may be taken into account when considering the potential impact of development on the openness of the Green Belt. This confirms that openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume. The duration of the development and its remediability as well as the degree of activity likely to be generated, such as traffic generation, are also relevant considerations.

#### *The Applicant's case*

Information submitted in support of the application provides an assessment against national Green Belt policy. This states that the site forms part of existing brownfield land and as such the proposal complies with the NPPF because it represents the partial redevelopment of previously developed land (NPPF paragraph 154(g)). A separate 'Brownfield Register Statement' has also been provided which seeks to demonstrate the previous use of the site.

The Applicant goes on to state that the new use is fully contained within the site and has a less intrusive impact (both visual and activity) than that of the previous timber yard. They consider that the new portacabin units, fencing and other structures will have a significantly reduced impact on the Green Belt than

that of the previous timber storage units, which over time achieved a substantial degree of permanence. Additionally, the Applicant considers that the removal of the previous level of timber storage will ensure that there would be a reduced level of impact on the openness, character and the visual amenities of the Green Belt, as well as to the character and appearance of the area. It is concluded that the proposed development would have a minor impact on the openness of the Green Belt and would be of a limited extent.

The Applicant's assessment also considers the impact of the development against the five purposes of the Green Belt and concludes that there will be no conflict with the purposes of including land in the Green Belt.

Notwithstanding the Applicant's stated position that they consider the development meets with one of the exceptions within the NPPF and consequently the proposal is not inappropriate development (i.e. partial redevelopment of a brownfield site which would not have a greater impact on the openness of the Green Belt than the existing development - paragraph 154(g) of the NPPF), the supporting information then presents a case for the existence of 'very special circumstances'. Very special circumstances are however only necessary when a development comprises inappropriate development in the Green Belt. In other words, when it does not meet with any of the exceptions listed within the NPPF. The Applicant's case for very special circumstances is as follows:

- The existing business is locally owned and staffed and consequently makes a significant contribution to the local economy. The intended use will allow for an enhanced level of support and contribution.
- The existing business has an excellent working relationship with the local community and has received favourable comments from the Parish Council.
- The proposed builds will be of an appropriate scale and design for the intended use, the site and the immediate area.
- There will be no adverse ecological, landscape or flood risk issues attached to the proposal.
- The proposal complies with all relevant planning policies [as set out in the Applicant's Planning Statement].
- The proposal redevelops a what would otherwise be derelict brownfield site.

The Applicant concludes that the level of very special circumstances advanced in support of the proposal are sufficient to outweigh any perceived harm to the openness of the Green Belt and sufficient to justify the proposed development.

#### *Officers' Green Belt Assessment*

The application site has previously been used as part of a timber yard business, with the land in question being used for open storage of timber products. There is nothing to indicate that the application site previously contained any buildings or other structures associated with the timber yard business and the available

evidence suggests that it has solely been used for the storage of timber. All the buildings associated with the timber yard lie outside of the application site and are the subject of a separate planning application for the retention of a timber yard business (W/23/1595). Supporting information indicates that the original timber yard has operated for over 20 years and imagery from Google Maps dated 2009 shows the presence of an established timber yard in situ.

The established lawful use of the land is as a timber yard and it is therefore accepted that the site constitutes previously developed (brownfield) land. The proposal therefore represents the partial redevelopment of a brownfield site. As such, the policy test is whether the development would have a greater impact on the openness of the Green Belt than the existing development. However, owing to the fact that the current application is retrospective, it is necessary to consider whether the existing gym development has a greater impact on the openness of the Green Belt than the previous use as part of a timber yard.

The proposal development involves a number of new buildings and structures on the site that would be permanent features.

At the north western end of the site is a modified portable building measuring approximately 2.3m wide and 3.4m long at a height of approximately 2.4m. Adjacent to this is a large container (essentially two conjoined shipping containers) that is approximately 4.7m wide and 5.8m long with a height of approximately 2.4m. Projecting from this container is an area of timber decking with a timber canopy over; the canopy projects by circa 4.6m.

At the south eastern end of the site is a single shipping container that is about 2.3m wide and 4.7m long, with a height of circa 2.4m. This container also has an adjoining decking area with canopy over; the canopy projects by approximately 4.3m.

Lying in between these buildings and structures is an area of astroturf that provides the outdoor training space. This is currently enclosed by a c40m section of 2.4m timber fencing to the boundary with Old Warwick Road and it is proposed to reduce the height of this fencing to 2m. During wet or very warm weather two moveable canopies are usually provided over part of the astroturf to protect users of the facility, but these are of a very temporary and intermittent nature.

Some new planting is proposed as part of the development. This includes infill planting to supplement the existing vegetation to the boundary with the canal and some hedging and climbing plants adjacent to the portable building and shipping containers to provide some soft screening.

When the site was used as part of a timber yard it provided an area for the open storage of timber. The different timber products were stacked in rows across the site. The storage was relatively low level when considering its overall height and it stands to reason that the height of the timber stacks fluctuated over time as

products were sold and subsequently restocked; this is confirmed by imagery from Google Maps.

The previous storage use extended almost 40m further to the south east than the existing gym development. This area to the south east is not included within the application site boundary and it is currently enclosed by 2.4m timber fencing to Old Warwick Road. This fencing forms part of the application site boundary and it proposed to remove the fencing in this location so that this area becomes open. A visual image submitted with the application indicates that this neighbouring strip of land would have gravel surfacing and edging to the boundary with the existing layby, along with a low timber retaining wall to the canalside boundary and a short strip of hedgerow dividing the land in two.

While the removal of a substantial section of fencing to the south east of the site is beneficial, it must be borne in mind that the fencing is unauthorised and therefore its removal is not dependent on the proposed gym development coming forward. Furthermore, because this adjacent piece of land is outside of the application site boundary and is not identified as being land within the control of the Applicant, the treatment of this area as shown within the submission details cannot be controlled by the Local Planning Authority (LPA). More importantly, there would be nothing to prevent its lawful use being reinstated at a later date. Therefore, while the plans indicate a significant reduction in the geographical spread of development in comparison to the previous timber storage use, the development would not prevent the reintroduction of the established use of the land in the future.

In any event, the proposal is considered to be a more intensive form of development than the previous storage use in terms of its built form. Whereas the previous use involved low level open storage of timber materials set against a vegetated backdrop, the proposed gym involves permanent buildings in the form of a modular building, shipping containers with projecting timber canopies along with a substantial section of 2m high timber fencing. This results in a concentrated built form, some 50m in length, with a high degree of enclosure. Some visual mitigation is proposed through new hedge planting to the south eastern boundary and in front of the modular building as well as the introduction of climbing plants to the fencing and the roadside elevations of the containers. While the planting would help to soften the visual impact of the development, it provides only limited mitigation and the prevailing character of the site would be an urban form of development with a strong sense of enclosure.

In Officers' opinion, the proposed gym development has a greater impact on the visual and spatial openness of the Green Belt than the previous use as timber storage. As such, the proposed development constitutes inappropriate development and should not be approved except in very special circumstances.

When considering the impact of the gym use in comparison to the previous use on the site it is necessary to also have regard to the potential fallback position. It is accepted that the lawful use of the site is as open storage in connection with a timber yard and this use (or other similar storage use) could therefore be revived on the application site, as well as the area of land to the south east that has



historically been part of the timber yard business. There is considered to be a realistic prospect of this occurring given that there is a separate application with the LPA for a continuation of a timber business on the adjoining site to the north west. It is acknowledged that reintroducing a storage use would also have an impact on the openness of the Green Belt but given the constraints of the site any such use is likely to be relatively low level - in a similar fashion to the historic timber storage use. As such, the fallback position in terms of the lawful use of the land does not materially alter Officers' opinion on the impact of the proposed development on the Green Belt.

It is to be noted as well that paragraph 154 of the NPPF confirms that the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport or recreation are not inappropriate provided that the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The Applicant has not sought to rely on this to justify their development within the Green Belt and given that Officers consider the development to be a hybrid of an outdoor and indoor sports/recreational use, it is not considered that this part of the NPPF is applicable to the development proposed.

Turning to the impact of the development on the five purposes of the Green Belt, the application site is remote from the nearest towns and large villages and would not therefore conflict with Green Belt purpose (a), which is to check the unrestricted sprawl of large built-up areas.

In relation to Green Belt purpose (b), which is to prevent neighbouring towns merging, the site is well separated from the nearest towns and settlements and so would not result in any sense of their boundaries becoming blurred.

Green Belt purpose (c) is to assist in safeguarding the countryside from encroachment. Encroachment from urbanising influences is the intrusion / gradual advance of buildings and urbanised land beyond an acceptable or established limit. Given that the site is previously developed land and the gym use does not extend as far as the previous storage use, there is not considered to be any greater degree of physical encroachment in geographical terms. Having said that, the introduction of permanent buildings and other structures onto the site is considered to have more of an urbanising influence in comparison to the previous open storage use and as such there is deemed to be some conflict with Green Belt purpose (c).

The site does not border or sit prominently within the setting of any historic towns. The proposal would not therefore conflict with Green Belt purpose (d), which is to preserve the setting and special character of historic towns.

The final purpose of the Green Belt is to assist in urban regeneration, by encouraging the recycling of derelict and other urban land. The site is brownfield land, albeit outside of an urban area, and so Green Belt purpose (e) is not directly relevant given that it seeks to incentivise development on previously developed land.

## *Conclusion*

Officers are of the opinion that the proposal represents inappropriate development which would, by definition, harm the Green Belt. Officers consider that it would result in harm to the openness of the Green Belt in both spatial and visual terms. There would also be a degree of harm to one of the purposes of the Green Belt through encroachment; this would result from the intrusion caused by the introduction of permanent buildings and structures onto the site where there has not previously been any, thereby having more of an urbanising influence. The proposed development would therefore conflict with the NPPF and Policy DS18 of the Local Plan. All harm to the Green Belt carries substantial weight.

Inappropriate development should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. The Applicant's submission contains a series of circumstances which they consider, when taken together, amount to very special circumstances to outweigh the harm to the Green Belt. The Applicant's case is considered at the end of this report following the assessment of all other relevant planning considerations.

### Suitability of the site's location

The NPPF identifies that health and fitness centres are classed as a main town centre use.

The NPPF requires a sequential test to be applied to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available should out of centre sites be considered (paragraph 91).

The application lies outside of a town centre. However, paragraph 93 of the NPPF confirms that the sequential approach should not be applied to applications for small scale rural offices or other small scale rural development. Neither the NPPF nor the Planning Practice Guidance define what constitutes small scale rural development. Nevertheless, having considered the size and nature of the proposal, Officers consider that it represents small scale development in a rural location and thereby meets with the exception for requiring the application of the sequential test.

Policy CT1 of the Local Plan is titled 'Directing New Meeting Places, Tourism, Leisure, Cultural and Sports Development'. This policy specifically relates to 'main town centre uses', which are defined in the NPPF and Local Plan. The first part of the policy states that new meeting places, tourism, leisure, cultural and sports development will be permitted in the town centres in accordance with the town centre policies (policies TC1 to TC18) and then seeks to apply a sequential approach to the location of such development.

The second part of Policy CT1 states that, in all other cases, new tourism, leisure and cultural development will be permitted where it can be demonstrated that:

a) There are no sequentially preferable sites or buildings and the development is easily accessible using sustainable forms of transport such as walking, cycling and public transport; or

b) The facility is of a type and scale that will mean it primarily serves a local community who can access it by means other than the private car.

The Local Plan does not include a similar exception for small scale rural development when considering the sequential test. Nevertheless, having accepted that there is no requirement for the sequential test under the NPPF, Officers have not sought to apply it in the context of Policy CT1. In coming to this conclusion, Officers have had regard to the predominantly outdoor nature of the development, which does not lend itself to typical town centre sites. This differentiates the proposal from a traditional health and fitness centre.

The proposal is nevertheless considered to be a form of leisure development and as such it is considered that part b) of the policy is applicable. Therefore, the facility is required to be of a type and scale that will mean it primarily serves a local community who can access it by means other than the private car.

In addition to this, paragraph 88 of the NPPF, under the heading 'supporting a prosperous rural economy', states that planning decisions should enable the development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.

Paragraph 89 of the NPPF states that planning decisions "should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist."

Chapter 8 of the NPPF seeks to promote healthy and safe communities. Paragraph 96 states that planning decisions should, *inter alia*, enable and support healthy lifestyles. Paragraph 97 states that, to provide the social, recreational and cultural facilities and services the community needs, planning decisions should plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments.

Policy SC0 of the Local Plan (Sustainable Communities) states that new development should ensure it is brought forward in a way which enables strong communities to be formed and sustained. Sub-section f) states development should provide good access to community facilities including meeting places, local shops transport services, health facilities and open space.

Policy HS1 (Healthy, Safe and Inclusive Communities) states that the potential for creating healthy, safe and inclusive communities will be taken into account when considering all development proposals. Support will be given to proposals that, *inter alia*, provide good access to local shops, employment opportunities, services, schools and community facilities.

Local Plan Policy HS6 (Creating Healthy Communities) states that development proposals will be permitted provided that they address a number of key requirements associated with delivering health benefits to the community. These key requirements include opportunities for community cohesion by the provision of accessible services and community facilities and places and opportunities for people to interact regardless of age, health or disability and access to opportunities to partake in indoor and outdoor sport and recreation.

The Applicant has provided a heat map which indicates where 52 members of the gym live (52 represents the number of members who were willing to provide their personal details for this exercise). The heat map shows that the majority of these members live within a 10 minute drive of the application site, in the Lapworth, Kingswood and Hoxley Heath areas. The remainder of the members are slightly further away.

The heat map also identifies other gyms in nearby town centres such as Shirley, Redditch, Warwick, and Stratford-upon-Avon. This is to demonstrate the travel distances that these clients would have to undertake if the proposed development did not exist.

It is evident from the submitted heat map as well as the 32 representations received in support of the application that the proposal serves a local client base. It is also evident that existing members of the gym would generally have greater travel times to attend an alternative gym.

Officers therefore accept that the facility is primarily serving the local community. It therefore follows that the gym is helping to meet the needs of the rural community in this area and is facilitating opportunities for the local community to access sport and recreation provision.

Where a facility primarily serves a local community, it is necessary for the community to be able to access it by means other than by private car (Policy CT1(b)).

The site is accessible via the adjacent canal towpath and this provides favourable opportunities for active travel; the towpath is however unlit which means that its usage is likely to be limited to certain times of the day across the year. Residents from nearby settlements could access the site via Old Warwick Road although

opportunities for pedestrians are constrained along here and the travel distances are also likely to be an impediment to anything other than cycling. The site is on a bus route (513) but this is not a regular service.

The nature of gyms is such that most members will drive to the facility, particularly out-of-centre gyms. Gyms are most often frequented early in the morning and in the early evening period - prior to and shortly after the end of the normal working day - as well as on weekend mornings. Consequently, many gym members will choose to drive for convenience regardless of other available travel options.

In Officers' opinion, the location of the site means that it is heavily reliant on private car. Indeed, the heat map that has been provided refers to driving travel times. The NPPF does however recognise that sites to meet local community needs in rural areas may not be well served by public transport. In these circumstances the NPPF states that it will be important to ensure that development does not have an unacceptable impact on local roads. The Local Highway Authority has raised an objection to the application (as detailed elsewhere in this report) and this includes the impact on the layby adjacent to the gym which forms part of the public highway.

In summary, the gym would provide a facility that would help to meet the needs of the local community in a rural area and facilitate healthy lifestyles. In this regard the proposal is consistent with the NPPF and the aforementioned Local Plan policies. Opportunities do exist for accessing the site by means other than private car, such as cycling, running or walking, albeit there are limitations to these which would serve as an impediment. It is also likely that the gym's existing members would travel greater distances to access another facility and so there is a sustainability benefit to the site's location. While it is considered that the site would mainly be accessed by private car, it is acknowledged that this is not necessarily unusual given the nature of this type of use. On balance, Officers therefore consider that the site's location is acceptable in terms of its accessibility. This is however subject to the impact on the local road network being made acceptable with regards to the Local Highway Authority's position.

## **Heritage**

The site lies within the Canal Conservation Area (CCA).

Section 72 of the Planning (Listed Buildings and Conservation Areas) 1990 imposes a duty when exercising planning functions to pay special attention to the desirability of preserving or enhancing the character of a Conservation Area.

Paragraph 205 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 208 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Policy HE1 of the Local Plan reflects the above requirements of the NPPF.

The Council's Conservation team initially raised concerns with the impact of the proposed buildings/structures on the character and appearance of the CCA. This particular canal length is highly rural in character, with limited built form and typical canal side housing, including lock cottages. The Conservation team commented that the combination of steel containers, canopies and portable buildings results in a distinctive change, creating a stark, industrial character when read from the canal towpath, in contrast to the rural characteristics of the area. The structures are deemed clearly at odds with the prevailing character of the CCA, with insufficient screening to mitigate the impact. It was recommended that extensive planting be provided, along with a reduction in height of the existing fence and the removal of canopies and steel containers to the absolute minimum required, to lessen the visual impact of the proposals on the CCA.

In response to these concerns, the Applicant has amended the scheme to remove a section of the existing fencing, including the fencing in front of the containers to create a more varied street elevation. Additionally, it is proposed to reduce the height of the fencing that is to be retained (from 2.4m to 2m) and paint it in a darker brown colour. Screen planting is now proposed, including infilling gaps in the existing vegetation to the canal, providing sections of hedgerow and climbing plants to screen and soften the appearance of the portable building and steel containers and providing climbing plants to the exterior of the retained fence so that it is broken up by greenery.

The Conservation team has considered the amended scheme and consider that it satisfactorily addresses their original concerns. It would be necessary to condition full details of the planting proposals.

The development is however considered to result in some harm to the character and appearance of the Conservation Area. While the development would replace the previous timber storage on the site which provides some benefit, the nature of the proposed buildings remain at odds with the prevailing character of the CAA in this location. Some mitigation is now provided but there would nevertheless be visual change to the site through the industrialised nature of the buildings. The level of harm is considered to be 'less than substantial' within the meaning of the NPPF, with this harm being towards the lower end of less than substantial.

Where such harm is identified, it is a requirement of national and local planning policy that the public benefits outweigh this harm. The Applicant's Heritage Impact Assessment advances a series of public benefits that they consider decisively outweigh the less than substantial harm to the character and appearance of the Canal Conservation Area. These public benefits are:

- Providing continued employment;
- Enhancing the region's economic activity;
- Enhancing the fitness levels and wellbeing of local clients of the fitness business;
- Providing additional access provided to local people to the canal and towpath. This is in terms of enhanced opportunity for use and enjoyment of the heritage asset by local people (particularly through which increases the potential to celebrate the value of the CCA and broadening understanding of its significance, as encouraged in the Conservation Area Appraisal
- Providing a buffer zone between the tranquil Canal Conservation Area and modern traffic on Old Warwick Road.

The HIA goes on to state that if measures were taken to visually improve the zone of interface between the fitness business and the canal towpath, it is considered that this impact would be reduced yet further, thereby reducing the level of public benefit required to balance any harm. Infill planting is now proposed to the canalside boundary which helps to mitigate the visual impact of the development when experienced from the canal and towpath.

Officers consider that the employment and economic benefits associated with the gym use would be very modest considering the scale of the business. Nevertheless, the development would support a small business which would in turn would provide a wider benefit to the local economy.

Enhancing the ability of the local rural community to access health and fitness facilities and services is considered to be a public benefit which weighs strongly in favour of the application.

Provision of additional access to local people to the canal and towpath and the creation of a buffer zone between Old Warwick Road and the canal are extremely tenuous public benefits and Officers do not afford these any weight.

Overall, the economic benefits combined with the provision of a facility that would help meet the needs of the local rural community and facilitate access to sport and recreation opportunities are considered to outweigh the less than substantial harm that has been identified. The application therefore accords with the NPPF and Policy HE1.

### **Impact on the character and visual amenity of the area**

The development is introducing industrialised buildings onto the site and a substantial section of 2m high timber fencing, and this impacts on the character and visual amenity of the area. The impact must however be considered in the context of the lawful use of the site as a timber yard and given the visual mitigation measures now proposed, on balance Officers do not consider that the development would result in any significant harm to the character and visual amenity of the area, such that it would warrant the refusal of planning

permission. The application is therefore considered to accord with Policy BE1 of the Local Plan and guidance in the NPPF.

### **Residential amenity**

There are some residential properties within the wider vicinity of the site. The Council's Environmental Health team has been consulted and no objections have been raised subject to conditions restricting the installation of speakers for the purpose of amplified voice and/or music and to limit the opening hours (no customers permitted to be on the premises other than between 0600 hours and 2100 hours, Monday to Friday, and between 0600 and 18:00 on Saturdays). On this basis it is considered that the development would not result in any unacceptable impacts on the living conditions of nearby residents and the application is therefore considered to accord with Policy BE3 of the Local Plan and guidance in the NPPF.

### **Highway safety**

The Local Highway Authority (LHA) has raised a series of issues and concerns with the application. The Applicant has provided a response to this and further comments from the LHA are awaited. At the time of writing it is unclear whether the Applicant's response is sufficient to address the matters raised by the LHA. An update will therefore be provided to members prior to the committee meeting.

### **Trees and ecology**

Two dead trees are proposed to be removed along the canalside boundary and it is proposed to provide new planting along this boundary to infill the gaps in the existing vegetation. A detailed scheme for the planting could be secured by condition. The LPA's arboricultural officer raises no objection to the application.

The County Ecologist has assessed the proposals and also raises no objection, subject to conditions requiring a Construction Environment Management Plan (CEMP) and to secure details of the external lighting to ensure the adjacent canal corridor is protected from undue light spill in the interests of local wildlife.

In terms of biodiversity net gain (BNG), it is considered that the previous use of the site would have had negligible ecological value and the new planting that is proposed as part of the scheme would deliver a net gain for biodiversity. It is to be noted that the application was submitted before recent BNG legislation was introduced and therefore it is not subject to the mandatory 10% BNG requirement.

The aforementioned conditions would also address comments made by the Canal and Rivers Trust.

### **Flood risk and drainage**



The Lead Local Flood Authority has been consulted and no issues have been raised. The application is therefore considered to be acceptable in terms of flood risk and drainage.

### **Sustainability**

Issues of accessibility have already been considered.

In terms of the Council's Net Zero Carbon DPD, the development does not meet the threshold for consideration against policies NZC1 to NZC3. As the application is retrospective, NZC4 could be considered relevant given that it relates to existing buildings. This requires that all developments demonstrate a consideration to sustainable construction and design in accordance with Local Plan Policy CC1 'Planning for Climate Change Adaptation'. In addition, all development should consider alternatives to conventional fossil fuel boilers.

The buildings are in the form of shipping containers and a small modular building and provide storage and training space plus some very basic amenities (WC and kitchenette). Given the scale and nature of the buildings, Officers consider that a pragmatic approach should be applied in this instance. The development is considered to fall outside the intended scope of the policy and it would be disproportionate to seek net zero measures on this particular scheme.

### **Other matters**

It is clear from the representations received in support of the application that the gym is a valued facility that is enjoyed by its members and they understandably wish to see that it continues. The comments made have been taken into account within Officers' assessment of the application, particularly in considering the suitability of the site's location.

Lapworth Parish Council neither objects to or supports the application. The Parish Council does however consider that the fencing is too high for this location. Since these comments were made the Applicant has revised the scheme to reduce the height of the fencing and remove some of the existing fencing entirely.

### **Very special circumstances**

The Applicant has provided a case for the existence of very special circumstances (as detailed earlier in this report). An Officer response is provided as follows:

- *The existing business is locally owned and staffed and consequently makes a significant contribution to the local economy. The intended use will allow for an enhanced level of support and contribution.*

Officer response: There is an economic benefit associated with this small business, including through the support of employment opportunities. The application form indicates that the business supports 2 full time jobs and 2 part time jobs. However, evidence to support the Applicant's assertion that the development makes a "significant" contribution to the local economy has not been provided and given the size of the business Officers consider that the

extent of the economic benefits are likely to be very modest. The economic benefits do nevertheless weigh in favour of the application.

- *The existing business has an excellent working relationship with the local community and has received favourable comments from the Parish Council.*

Officer response: The relationship between the business and the local community is considered to be immaterial in planning terms. Lapworth Parish Council has been formally consulted on the application and has a neutral stance (neither for or against the proposal).

- *The proposed builds will be of an appropriate scale and design for the intended use, the site and the immediate area.*

Officer response: It is a normal planning requirement for new built development to be of an appropriate scale and design for its intended use and the site's location. The design is not innovative in any way - such that it could potentially be afforded weight as part of a case for very special circumstances - and the scale and design are not considered to contribute to very special circumstances.

- *There will be no adverse ecological, landscape or flood risk issues attached to the proposal.*

Officer response: Other planning impacts of the development are to be assessed in their own right and are to be weighed in the overall planning balance. An absence of harm would not contribute to the existence of very special circumstances.

- *The proposal complies with all relevant planning policies [as set out in the Applicant's Planning Statement].*

Officer response: Developments are expected to comply with relevant planning policies and therefore policy compliance would not contribute to the existence of very special circumstances.

- *The proposal redevelops what would otherwise be derelict brownfield site.*

Officer response: The NPPF already considers the redevelopment of previously developed sites in the Green Belt and the application has been assessed on that basis. As such this matter is not considered to contribute to the existence of very special circumstances. Also, while the recycling of previously developed land is promoted in the NPPF and represents an efficient use of resources, this is a general principle of good planning and is not something that could reasonably be said to contribute to very special circumstances. There is also nothing to suggest that the site would otherwise appear as a derelict piece of land that is likely to detract from the character and appearance of the area.

## **Planning Balance and Conclusion**

The proposed development would result in harm to the Green Belt by reason of inappropriateness, loss of openness and encroachment; substantial weight is to be afforded to this harm.

The development also has the potential to prejudice highway safety. A series of concerns and issues have been raised by the LHA, although the Applicant has provided a response to these concerns. Nevertheless, at the time of writing, it is unclear whether the LHA objection can be lifted.

It has been evidenced that the proposal would primarily serve the local community. It is considered that the gym would help to meet the needs of the rural community in this area and facilitate opportunities for the local community to access sport and recreation provision. This in turn enhances the sustainability of the local community and weighs in favour of the application. The main benefit of this would be a reduction in car journey distances/times if existing gym members were to attend alternative premises within the local area.

There would also be a very modest economic benefit through the support of a small business providing up to 3 full-time equivalent jobs.

The 'less than substantial' harm that has been identified to the CCA would be outweighed by the public benefits associated with the economic and sustainability aspects of the proposal.

Of the other matters identified, namely amenity, trees, ecology and drainage, these either result in no material harm or could be adequately addressed through the imposition of appropriate conditions. As such they neither weigh for or against the proposal.

Having considered the Applicant's case for very special circumstances and also having considered the benefit of the development in terms of the facility meeting the needs of the local community, it is not considered that these amount to very special circumstances to clearly outweigh the harm to the Green Belt. The application is therefore contrary to the NPPF and Policy DS18 of the Local Plan and is therefore recommended for refusal on that basis.

Additionally, other harm has been identified in terms of highway safety and the very special circumstances advanced by the Applicant would also need to outweigh that harm - or alternatively the Applicant's response to the LHA objection will need to be sufficient for the LHA to conclude that the development is acceptable in highway safety terms. Further information will be provided to members on this point.

## **REFUSAL REASONS**

- 1 The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Local Plan policy DS18 echoes the requirements of the NPPF.

In the opinion of the Local Planning Authority, the proposal represents inappropriate development, which is harmful by definition. There would be harm to the openness of the Green Belt in both visual and spatial terms and the development would also represent encroachment through the introduction of a greater urbanising influence, which would conflict with one of the purposes of the Green Belt. It is not considered that very special circumstances exist to clearly outweigh the harm to the Green Belt.

- 2 The application has not adequately demonstrated that the proposed development would not result in an unacceptable impact on highway safety, specifically in terms of the impact on the adjacent layby which forms part of the public highway and the proposed access and parking arrangements. The application is therefore contrary to Policy TR1 of the Local Plan and guidance contained within the NPPF.

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**Planning Committee:** 18 June 2024

**Item Number:** 8

**Application No:** [W 24 / 0412](#)

**Town/Parish Council:** Warwick  
**Case Officer:** Lucy Shorthouse  
01926 456528 lucy.shorthouse@warwickdc.gov.uk

**Registration Date:** 25/03/24  
**Expiry Date:** 20/05/24

**10-12, 14-28, 32-45 Martinique Square, Bowling Green Street, Warwick**  
Replacement of existing timber framed windows and balcony doors with uPVC.  
(Resubmission W/23/0363) FOR Martinique Square (Warwick) Ltd

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This application is being presented to Planning Committee as 5 or more letters of support have been received, it is supported by the Town Council, and it is recommended for refusal.

### **RECOMMENDATION**

It is recommended Planning Committee refuse this application for the reasons set out at the end of this report.

### **DETAILS OF THE DEVELOPMENT**

Replacement of existing timber framed windows and balcony doors with uPVC.

### **THE SITE AND ITS LOCATION**

Martinique Square was redeveloped into two new blocks of flats, three townhouses and the conversion of the former Public House (The Westgate Arms) which is Grade II Listed. The application properties are residential flats, within Martinique Square. 10-12, 14-28 (Block C) sit on the south, and 32-45 (Block A) on the north side. The application buildings are not Listed, but are located within the Warwick Conservation Area and within the immediate setting of a Listed Building. The blocks also face onto Hill Close Gardens to the west, which is a Grade II\* Registered Park and Garden.

### **RELEVANT PLANNING HISTORY**

This application is an unchanged resubmission of W/23/0363 for the same proposals which was refused at planning committee in May 2023.

### **RELEVANT POLICIES**

- National Planning Policy Framework
- [Warwick District Local Plan 2011-2029](#)
- BE1 - Layout and Design
- BE3 - Amenity
- HE1 - Protection of Statutory Heritage Assets

- HE2 - Protection of Conservation Areas
- Guidance Documents
- Windows in Listed Buildings & Conservation Areas (Supplementary Planning Guidance)

## **SUMMARY OF REPRESENTATIONS**

**Warwick Town Council:** Supports the application and considers the benefits outweigh any potential harm to the property.

**WDC Conservation:** Objection - considered to result in harm to heritage asset which is not outweighed by public benefits.

**Cllr Rosu:** Supports the proposal on grounds of benefit to climate/energy efficiency with benefit to residents and impact of visual change considered minimal.

**Public Response:** 32 other responses received in support of the proposal on grounds of improved thermal insulation, improved noise reduction, reduced maintenance and costs

## **ASSESSMENT**

### Impact on Designated Heritage Assets and Conservation Area

Considerable importance and weight should be given to the duties set out in the Planning (Listed Buildings and Conservation Areas) Act 1990, when making decisions that affect conservation areas. These duties affect the weight to be given to the factors involved.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 explains that in considering whether to grant permission for developments affecting listed buildings or their setting, the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires the Council to pay special attention to the desirability of preserving or enhancing the character or appearance of designated Conservation Areas.

Paragraph 205 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Paragraph 208 states that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. This is reiterated in Local Plan Policy HE1.

Local Plan Policy HE2 notes that unlisted buildings can often contribute significantly to the special architectural or historic importance of conservation areas. This policy seeks to retain the integrity and form of unlisted buildings in conservation areas and recommends resisting alterations which would have an adverse effect upon the overall character of the conservation area.

The existing windows are timber framed double glazed units. The proposed windows are white uPVC. The use of double glazing is acceptable, and it is already in use. However, as per the 'Windows in Listed Buildings and Conservation Areas' Supplementary Planning Guidance (SPG) produced by the Council, uPVC windows are not supported within Conservation Areas. The large concentration of plastic windows would cause unacceptable visual harm to the appearance of the building. While it is acknowledged the application buildings themselves are not historic, they are sited in a prominent position within the Warwick Urban Conservation Area and within the direct setting of a Grade II Listed building (1-9 Martinique Square).

The differences between timber and uPVC units can have a harmful effect on the character, appearance and setting of heritage assets. uPVC is obviously modern. Together with the appearance of the smooth and shiny surface of the white uPVC frames, their wide configuration, and flat white glazing strips, the uPVC units markedly contrast with the traditional thin painted frames and slender structural glazing bars.

It is considered that the alteration of these windows from timber to uPVC would have a harmful impact on the setting of the neighbouring listed building and the character and appearance of the conservation area.

The statement submitted by the agent with this application raises that there are other buildings in the area which have uPVC windows. However, it should be noted that single dwellinghouses can change from timber to uPVC windows without planning permission under permitted development rights. These permitted development rights do not apply to flats or commercial buildings. Where the Council has control over window materials, decisions should be made in accordance with national and local policies including the SPG which states that changes from timber to uPVC should be resisted within conservation areas and on buildings which are historically important such as the application site. From a conservation perspective, property owners are actively encouraged to stick with timber irrespective of whether permission is needed or not, because this better reflects the historic character of the conservation area, and advice is always to retain and repair.

The example of Westbury Court was raised within supporting documentation and on the Officers' site visit. However this was considered acceptable at Planning Committee due to the specifics of the location in question. Westbury Court has a more contemporary design and has no relationship with, nor is it located in the immediate vicinity of, a listed building or individual heritage asset (with St Nicholas' Park not being a nationally listed park or garden). Furthermore it is well set back from the road.

It is not disputed that there are examples of uPVC in the locality. However, whilst there may be examples of uPVC being agreed, each case is assessed on its own

merits, and for the reasons outlined in this report, in the case of this application, the use of uPVC is not considered acceptable.

The current condition of the timber windows is said to be poor, with repair works required. However, this is not justification to use an inappropriate form of material.

The supporting statement to this application also raises that the redevelopment of the property opposite the application site (former Printworks) has installed grey framed uPVC windows. However this is a modern building and was not designed with any direct relationship to the historic building of Martinique Square. Given that there is already large amounts of uPVC in this area, this is undermining the value of the immediate area which can now be considered unsympathetic to the wider setting, further emphasising the importance of retaining the character where possible, and should not be supportive of anything that is causing further erosion of this character.

There is great emphasis from supporting statements, comments received throughout the consultation response, and the Town Council that the rationale behind the replacement appears to be greater energy efficiency, an approach which is supported in overall terms.

The supporting document with this application states that uPVC will improve the acoustic and thermal properties of homes. However, whilst it is not disputed that the installation of new window units would improve performance, the choice of uPVC as the frame material is not considered to dictate this but rather, any improvement would be achieved through the increase in overall glazing thickness and a well fitted unit. Timber has low thermal conductivity and is therefore naturally a great insulating material, which is considered to provide better performance than uPVC. Timber is also considered a good acoustic insulator and has proven to be better than uPVC and aluminium at blocking out sound. Timber is also a sustainable choice, and considered appropriate for the Conservation Area with regard to the visual impact to the wider heritage asset but also the setting of the neighbouring listed building.

Aside from the framing material, what is most likely to effect the above factors, is the type of glazing. The glazing specification, which is 24mm and therefore the double the existing thickness, would improve thermal and acoustic efficiency. Whilst 12mm is usually specified for reduced visual impact, following conversations between the Conservation Officer and the Case Officer, it is considered that 24mm glazing would be acceptable in this location. The building, whilst being contemporary, was designed in relation to the listed building and its form and features are intended to be sensitive in character both in regards to its immediate setting but also the wider Conservation Area. However, the cumulative harm of both increased glazing thickness and uPVC is considered to have a detrimental visual and environmental impact.

It can be noted that in correspondence on this case, the agent has agreed that in considering whether uPVC would out-perform the standard quality timber windows, the specifications could match each other. Officers would therefore reiterate the above points made, that any replacement window would be an



improvement, and it is not the case that uPVC is required to achieve the desired outcome of the residents for increased efficiency.

Comments made during the application have also made reference to cost. However, if it is argued that the cost of replacement with timber is twice that of uPVC, with correct maintenance, typically timber outlasts the lifespan of uPVC products by two times. So considered over a long-term time period, the replacement costs would balance. Officers accept there are maintenance costs associated with timber, but the agent has confirmed periodic maintenance is already undertaken, so is not something unreasonable above what is already being performed. The decision to replace the windows is understood to be because the timber frames are at the end of their lifespan, and it is recognised all windows have a 'shelf life' so replacement would become an inevitable requirement.

The introduction of increasingly energy efficient windows would generate a public benefit in terms of sustainability. However, in this case the same public benefit can be achieved by timber-framed windows. Consequently there is no public benefit derived from using uPVC frames. Double glazed timber units would offer the same energy efficiency, and timber is a sustainable material that can be repaired, unlike uPVC which requires complete replacement.

When conducting a site visit, Officers were shown a sample of the proposed window with alternative profile options. The sample did not overcome Officer's concerns.

The harm to heritage assets would be categorised as "less than substantial" for the purposes of paragraph 208 of the NPPF. There are no public benefits to outweigh the harm. The proposals are therefore contrary to Local Plan Policies HE1, HE2 and the Council's 'Windows in Listed Buildings and Conservation Areas' Supplementary Planning Guidance.

In addition, Policy BE1 states development must reflect, respect and reinforce local architectural and historical distinctiveness. For the aforementioned reasons, it is not considered that the proposals comply with this policy.

#### Impact of the proposal on amenity

Policy BE3 of the Warwick District Local Plan seeks to ensure development proposals do not result in an adverse impact on the amenity of neighbouring residential dwellings or significantly impact the amenity of existing and future occupiers of the development site.

All windows and doors are replacing those that are existing, and no new openings are being proposed. The replacement windows therefore have no harm or additional impact on amenity, and the proposals are considered to comply with Local Plan Policy BE3.

#### **CONCLUSION**

The proposals would result in unacceptable harm to the Conservation Area and the setting of a Listed Building, and are contrary to Local Plan Policies HE1, HE2, BE1 and the Council's 'Windows in Listed Buildings and Conservation Areas'

Supplementary Planning Guidance. This harm is not considered to be outweighed by public benefits. It is therefore recommended that planning permission is refused.

## **REFUSAL REASONS**

- 1 Policy HE1 of the Warwick District Local Plan 2011-2029 and the NPPF state that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. Local Plan Policy HE2 recommends resisting alterations which would have an adverse effect upon the overall character of the conservation area. Local Plan Policy BE1 states development must reflect, respect and reinforce local architectural and historical distinctiveness.

In the opinion of the Local Planning Authority, the proposed uPVC windows would result in less than substantial harm to the significance of the conservation area and the setting of a Listed Building. There are no public benefits which outweigh this harm.

The development is thereby considered to be contrary to the aforementioned policies.

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**Application No:** [W 24 / 0476](#)

**Town/Parish Council:** Wasperton  
**Case Officer:** Jack Lynch  
01926 456642 Jack.lynch@warwickdc.gov.uk

**Registration Date:** 09/04/24  
**Expiry Date:** 04/06/24

**Nos. 1,2,3,4,5,6,7,8 Farriers Court, Wasperton, Warwick, CV35 8EB**  
Application for Removal of Condition 3 of planning permission W/90/1026  
(Removal of permitted development rights) FOR Mr Amos

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This application is being presented to Planning Committee as a Councillor resides in one of the dwellings within the site.

**RECOMMENDATION**

Planning Committee is recommended to refuse planning permission.

**DETAILS OF THE DEVELOPMENT**

This application is made under section 73 of the Town and Country Planning Act 1990.

In deciding an application under Section 73, the Local Planning Authority must only consider the disputed condition that is the subject of the application. In this case the applicant is seeking the removal of Condition 3 of planning permission W/90/1026. That planning permission related to, W/90/1026 - Erection of 8 dwellings and garages/car ports with new vehicular access (amendment to W881272) at Bradshaw Farm, Wasperton, and the condition in question reads as follows:

“Notwithstanding the provisions of the Town and Country Planning General Development Order 1988, no development shall be carried out which comes within Parts 1 and 2 A and B of schedule 2 of this order, without the prior permission of the District Planning Authority”

In practice that condition required that within this development, planning permission is required for development such as extensions to the side and rear of dwellings, front porches and erection of outbuildings, which would be usually be permitted development.

On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted which in this particular case is whether the permitted development rights restricted by the condition should continue to be so restricted.

**THE SITE AND ITS LOCATION**

The application site is host to dwellings no. 1 – 8 Farriers Court, accessed off a private road in the Village of Wasperton. The dwellings are characterised as a traditional brick-built agricultural townhouse building with surrounding barn style dwellings. The dwellings have open landscaped frontages with parking spread appropriately within the plot.

The application site is in the Wasperton Conservation Area.

### **PLANNING HISTORY**

W/90/1026 - Erection of 8 dwellings and garages/car ports with new vehicular access (amendment to W881272) at Bradshaw Farm, Wasperton. Granted.

W/88/1272 - Erection of 8 dwellings and associated garaging including installation of private sewage treatment unit at The Piggery, Bradshaw Farm, Wasperton. Granted.

### **SUMMARY OF REPRESENTATIONS**

**Barford, Sherbourne and Wasperton Joint Parish Council** – No objection.

### **RELEVANT POLICIES**

National Planning Policy Framework

Warwick District Local Plan 2011-2029

- BE1 – Layout and Design
- BE3 – Amenity
- HE1 – Protection of Statutory Heritage Assets
- HE2 – Protection of Conservation Areas

### **ASSESSMENT**

The basis of justification for removal of Condition 3 from the historic consent set out within the application is an assertion that the condition does not meet the 6 tests for Planning Conditions set out within the National Planning Policy Framework (NPPF) and preceding national legislation.

Paragraph 55 of the NPPF states that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations imposed on a planning permission.

Paragraph 56 sets out the relevant tests for imposing planning conditions, which is as follows:

*Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.*

Paragraph 54 states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.

Condition 3 of the historic consent is as follows:

'Notwithstanding the provisions of the Town and Country Planning General Development Order 1988, no development shall be carried out which comes within Parts 1 and 2 A and B of schedule 2 of this order, without the prior permission of the District Planning Authority.' Reason: 'To retain control over future development of the premises in the interests of amenity'.

The works that can be completed within these parts of the GPDO include extensions to the side and rear of dwellings, the erection of a front porch, erection of outbuildings, installation of fences and means of enclosures, among other works.

The application site is characterised as a traditional brick-built agricultural townhouse building with surrounding barn style dwellings. The traditional character, form, layout and appearance of the properties was a specific design feature at the time that planning permission was granted and is largely unchanged since their erection.

The condition the subject of this application would have been imposed to safeguard the wider amenity of the area by bringing under control types of development that would impact upon the character and design of the wider development, and by extension the amenity of the area.

The importance of safeguarding that amenity and character has not changed in the intervening period particularly as the overall development the subject of the permission remains relatively unchanged. It is considered that the condition meets all 6 of the tests described above and that there is no material change in circumstances sufficient to revise that view.

In the application form the applicant has stated, "The condition is no longer required because Farriers Court is Part of the Wasperton Conservation Area created in 2002, and the restrictions that apply to permitted development rights in the Conservation Area provide a publicly consulted and appropriate level of permitted development rights that should apply to Farriers Court too."

Though the area has been washed over by a conservation boundary restriction, since the time of the development, should permitted development rights be restored, the properties could still complete significant works that would impact the traditional design of these dwellings and impact the amenity of the area , without the prior permission of the LPA.

It is therefore considered that the circumstances for continuing to restrict Part 1 and Part 2, A and B permitted development rights remain in this case.

Maintaining this condition will ensure that the traditional character of these dwellings is retained in the future as well as retain control over the future development of the premises in the interests of amenity.

**CONCLUSION**

In view of the above, it is considered the condition is sufficiently precise and necessary to protect the appearance and future development of the premises in the interests of amenity and therefore the recommendation is one of refusal.

**REFUSAL REASONS**

- 1 The basis of justification for removal of Condition 3 from the historic consent set out within the application is an assertion the condition does not meet the 6 tests for Planning Conditions set out within the National Planning Policy Framework (NPPF) and preceding national legislation.

Paragraph 55 of the NPPF states that Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.

Paragraph 56 sets out the relevant tests for imposing planning conditions, which is as follows:

*Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.*

The dwellings in Farriers Court are characterised as a traditional brick-built agricultural townhouse building with surrounding barn style dwellings. The traditional character, form, layout and appearance of the properties is largely unchanged since their erection.

It is therefore considered that there remains to be circumstances for continuing to restrict Part 1 and Part 2, A and B permitted development rights in this case. No evidence has been submitted to the Local Planning Authority that would suggest otherwise.

The proposals are therefore considered to be contrary to the NPPF.



**Planning Committee:** 18 June 2024

**Item Number:** 10

**Application No:** [W 24 / 0177](#)

**Town/Parish Council:** Leamington Spa

**Registration Date:** 09/02/24

**Case Officer:** Rebecca Compton

**Expiry Date:** 05/04/24

01926 456544 rebecca.compton@warwickdc.gov.uk

**Regency House, Newbold Terrace, Leamington Spa**

Demolition of existing brick boundary wall and erection of new metal railings and associated works FOR Regency House Residents' Association (Leamington Spa) Ltd

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

**RECOMMENDATION**

Planning Committee is recommended to grant planning permission, subject to the conditions listed at the end of this report.

**DETAILS OF THE DEVELOPMENT**

The proposal seeks planning permission for the replacement of an existing boundary wall located along Rosefield Street with metal railings. The development would include the removal of one tree along the Rosefield Street elevation.

**THE SITE AND ITS LOCATION**

The application site relates to the apartment complex Regency House which is accessed off Newbold Terrace, Leamington Spa. The application specifically relates to the rear boundary wall to the car park serving Regency House which runs adjacent to Rosefield Street. The rear boundary benefits from a number of trees and a landscaping strip between the existing boundary wall and the public footpath. The site is in the Royal Leamington Spa Conservation Area.

**PLANNING HISTORY**

None relevant.

**RELEVANT POLICIES**

- National Planning Policy Framework
- [Warwick District Local Plan 2011-2029](#)
- BE1 - Layout and Design
- BE3 - Amenity
- HE1 - Protection of Statutory Heritage Assets
- TR1 - Access and Choice
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- NE3 - Biodiversity

- Royal Leamington Spa Neighbourhood Plan 2019-2029
- RLS3 - Conservation Area

## **SUMMARY OF REPRESENTATIONS**

**Royal Leamington Spa Town Council:** Raised no objection.

**WDC Tree Officer:** No objection, subject to condition securing tree protection measures.

**WCC Ecology:** Recommend the tree is checked for bats and nesting birds.

**Public Response:** 6 objections received on the following grounds:

- Impact on neighbours in terms of noise and light pollution
- Visual impact on the Conservation Area
- The original development required a boundary wall
- Loss of privacy to residents of Regency House

1 support comment has been received on the basis that the existing boundary wall is unsafe, and the proposed railings will retain the existing trees.

## **ASSESSMENT**

### Design and impact on the character and appearance of the Conservation Area

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty when exercising planning functions to pay special attention to the desirability of preserving or enhancing the character of a conservation area.

Paragraph 205 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 207 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage assets, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Policy HE1 of the Warwick District Local Plan states that development will not be permitted if it would lead to substantial harm to or total loss of the significance of a designated heritage asset, unless it is demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss, or if criteria listed within the policy have been satisfied. Where development would lead to less than substantial harm to the significance of a designated heritage asset, this harm will be weighed against the public benefits of the proposal, including securing its optimum viable use.

Policy BE1 of the Warwick District Local Plan states that new development should positively contribute to the character and quality of its environment. The policy requires the provision of high-quality layout and design in all developments that relates well to the character of the area.



Neighbourhood Plan Policy RLS3 requires development within or affecting the setting of a conservation area to be of a design that is sympathetic to the local context including designated heritage assets.

The proposal seeks to replace an existing boundary wall with metal railings. The existing boundary wall has structural damage, which is being caused by the adjacent trees, which has been confirmed through a Structural Survey and an Arboricultural Survey. The Structural Survey recommends that to retain a boundary wall, larger foundations would be required. A subsequent Arboricultural Assessment was undertaken which deemed this would likely cause harm to the large tree roots to the protected trees, particularly the large Maples. The proposal is therefore to replace a section of the boundary wall with metal railings which can be supported by metal props rather than foundations which would not affect the tree roots and would enable the retention of the existing protected trees. There are a number of examples of boundary railings along Rosefield Street and in the wider area. In this context the proposed boundary railings would be of an acceptable design and would not be harmful to the character and appearance of the street scene. Whilst the proposal would result in views of the existing car park in the street scene, it is not considered that this would be detrimental to the character and appearance of the street scene nor the wider conservation area.

The proposal includes the removal of one tree along the Rosefield Street boundary. Officers consider that the tree to be removed has a low amenity value and the loss of the tree would not be detrimental to this part of the conservation area. Officers consider the Maple trees provide the most valuable contribution to the street scene and are therefore supportive of the proposals which will ensure they are retained.

Whilst concerns regarding the loss of the boundary wall are noted and understood, Officers are satisfied that the proposed railings are of an acceptable design and would not be harmful to the street scene nor the character and appearance of the Conservation Area.

The proposal is considered to comply with the aforementioned policies.

#### Impact on amenity of neighbouring properties

Policy BE3 of the Warwick District Local Plan states that new development will not be permitted that has an unacceptable adverse impact on the amenity of nearby uses and residents.

The existing boundary wall and the proposed railings are separated from the nearest neighbouring properties along Rosefield Street by the public highway. Whilst the development would increase views along Rosefield Street into the rear car park serving Regency House, Officers are of the view that this would not cause harm to the amenity of neighbouring properties in terms of noise given the neighbouring properties are situated approximately 11 metres away from the existing car park and are separated from the site by the existing highway and on-street parking. Concerns have also been raised over potential light pollution from the existing car park. Whilst these concerns are noted and understood, the majority of the outdoor lighting serving Regency House is contained near to the main building which is situated over 30 metres away from the neighbouring properties along Rosefield Street. The existing large trees and landscaping strip

are to be retained which will provide some screening of the car park from the street scene and neighbouring properties. Based on the above, Officers are satisfied that the development would not cause harm to the amenity of neighbouring properties.

The proposal is considered to comply with Local Plan Policy BE3.

### Ecology

The proposal seeks the removal of one Rowan tree which has been identified in the Tree Survey to be in poor health and recommended for removal. The applicant has submitted an Arboricultural Method Statement detailing tree protection measures to ensure no harm to the trees to be retained is caused during the construction phase. The proposed railings have also been chosen as the most appropriate boundary treatment to avoid any negative impacts on the existing trees. The Tree Officer has raised no objection, subject to a condition securing the tree protection scheme submitted as part of the Arboricultural Method Statement. The proposal seeks to retain the existing landscaping strip and as the habitat to be lost, i.e. the Rowan tree, would be no greater than 25 square metres, the development is exempt from achieving biodiversity net gains.

Subject to condition, the development complies with Local Plan Policies NE2 and NE3.

### Access and parking

The proposal would not impact the existing access to the site nor the parking layout at Regency House. The boundary railings would replace an existing wall of a similar height in the same position and so would not impact on visibility for highway users along Rosefield Street.

The development complies with Local Plan Policies TR1 and TR3.

### **Conclusion**

The proposed railings are considered of an acceptable design and would not be harmful to the character and appearance of the Conservation Area. Furthermore, the development would not have a detrimental impact on the amenity of neighbouring properties and has demonstrated that the development would not have a harmful impact on the protected trees.

### **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) 30112022/1A, and specification contained therein, submitted on 09th February 2024. **Reason:** For the avoidance of doubt

and to secure a satisfactory form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.

- 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 have been put into place in full accordance with the approved details and thereafter shall remain in place for the full duration of any such construction work. 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 Policies BE1 and NE1 of the Warwick District Local Plan 2011-2029.
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**Planning Committee:** 18 June 2024

**Item Number:** 11

**Application No:** [W 24 / 0430](#)

**Town/Parish Council:** Kenilworth

**Registration Date:** 28/03/24

**Case Officer:** Thomas Senior

**Expiry Date:** 23/05/24

01926 456539 thomas.senior@warwickdc.gov.uk

**230 Warwick Road, Kenilworth, CV8 1FD**

Variation of Condition 2 (approved plans) of planning permission ref: W/23/0975 (Erection of single and two storey rear extension and loft conversion to create store and hobby room) to amend design of proposed rear gable FOR Mr John Moorhouse

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

**RECOMMENDATION**

Planning Committee is recommended to grant planning permission, subject to the conditions listed at the end of this report.

**DETAILS OF DEVELOPMENT**

The applicant seeks to vary Condition 2 (approved plans) of planning permission ref: W/23/0975 (Erection of single and two storey rear extension and loft conversion to create store and hobby room) to amend the design of the proposed rear gable with the introduction of glazing at second floor level.

**SITE AND LOCATION**

The application property relates to a detached dwelling located to the west of Warwick Road, Kenilworth. The immediate streetscene itself is characterised by detached properties which are set back from the highway and comprised of a variety of external finishes.

**RELEVANT PLANNING HISTORY**

W/23/0975 – Erection of a single and two storey rear extension and loft conversion to create store and hobby room - Granted.

**RELEVANT POLICIES**

- National Planning Policy Framework
- [Warwick District Local Plan 2011-2029](#)
- BE1 - Layout and Design
- BE3 - Amenity
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- [Guidance Documents](#)
- Residential Design Guide (Supplementary Planning Document- May 2018)
- [Kenilworth Neighbourhood Plan \(2017-2029\)](#)

- KP13 - General Design Principles

## **SUMMARY OF REPRESENTATIONS**

**Kenilworth Town Council** - Withdrew their initial objection to the scheme on the basis that glazing could be installed under permitted development in the future.

**Public Response** - 5 separate objections have been received from the occupiers of 228 and 232 Warwick Road on grounds of loss of privacy due to overlooking, the alteration being out of character, light pollution and impact on local wildlife.

## **ASSESSMENT**

Design and impact on character and appearance of the streetscene.

The NPPF (2023) places an increased emphasis on the importance of achieving good quality design as a key aspect of sustainable development. Paragraph 135 states that planning decisions should ensure that developments are visually attractive as a result of good architecture, layout and appropriate external facing materials. Development is expected to function well and add to the overall quality of the area by appearing sympathetic to the local character and history.

Local Plan Policy BE1 echoes paragraph 135 of the NPPF and states that new development will be permitted where it positively contributes to the character and quality of its environment through good layout and design. Proposals are expected to demonstrate that they harmonise with, or enhance, the existing settlement in terms of physical form, patterns of movement and land use. Proposals are also expected to reinforce or enhance the established urban character of streets and reflect, respect and reinforce local architectural distinctiveness.

The Residential Design Guide SPD sets out steps which must be followed in order to achieve good design in terms of the impact on the local area; the importance of respecting existing important features; respecting the surrounding buildings and using the right materials.

Kenilworth Neighbourhood Plan Policy KP13 requires development proposals to achieve a standard of design that is appropriate to the local area and demonstrate regard for the site characteristics and surrounding built form.

Objection comments have been received from both neighbouring occupiers on grounds that the proposed alteration would be out of character with the surrounding properties. Whilst this comment has been considered, the proposed alteration is entirely to the rear of the property and will therefore have a limited impact upon the character and appearance of the streetscene. In addition, the character of the area is varied. Moreover, the proposed development also benefits from a fallback position whereby the proposed installation of additional glazing could be completed in the future under permitted development, without the need for planning permission. The applicant could implement the previous permission in accordance with the approved plans and then subsequently install the glazing proposed under the current application at a later date without the need for planning permission.

The proposed alteration is considered to be acceptable from a design perspective and in accordance with the aforementioned policies. Significant weight should also be attributed to the realistic fallback position.

#### Impact on neighbouring properties and the current and future occupiers of the development

Warwick District Local Plan Policy BE3 requires that development must have an acceptable impact on the amenity of all neighbouring residents, in terms of light, outlook and privacy.

Both immediate neighbours to the application property, Nos. 228 and 232 Warwick Road, have objected to the proposed alteration on grounds of loss of privacy through potential overlooking into their rear private amenity spaces. Whilst these comments have been considered, Officers are mindful that a degree of mutual overlooking is to be expected between properties in an urban setting such as this. Whilst the proposed alteration will create an additional opening to the rear of the property, it is not considered that this additional opening will result in such level of overlooking over and above what is already possible to the extent that it would justify a reason to refuse planning permission.

Moreover, as aforementioned, it is of considerable importance to highlight that the proposal could be implemented under permitted development in the future.

Therefore, considering the above assessment it is considered that the proposed alteration is in accordance with Local Plan Policy BE3.

#### Ecology

Local Plan Policy NE2 of the Warwick District Local Plan 2011-2029 states that development will not be permitted that will destroy or adversely affect protected, rare, endangered or priority species unless it can be demonstrated that the benefits of the development clearly outweigh the nature conservation value or scientific interest of the site and its contribution to the wider biodiversity objectives and connectivity. Policy NE2 goes on to state that all proposals likely to impact on these assets will be subject to an ecological assessment.

One aspect of the objection comment received by the occupier of 228 Warwick Road relates to the impact that the proposed new window will have on local wildlife, particularly in relation to potential light pollution and the impact this will have on nocturnal wildlife. Whilst this comment has been acknowledged, the County Ecologist has not objected to the proposed alteration and the impact it could have upon protected species. A bat note will be added in the event of an approval.

As such, the proposed development is considered to be in accordance with Local Plan Policy NE2.

#### **SUMMARY AND CONCLUSION**

The proposed alteration and the introduction of an additional glazed opening to the rear of the application property at second-floor level is considered to be of an acceptable design that will have a limited impact upon the character of the

streetscene owing to its siting to the rear of the property and the varied character of properties in the area. Moreover, the proposed glazed opening is not considered to result in harm to amenity. Weight is also attributed to the fallback position. As such, in light of the above assessment this application is recommended for approval.

### **CONDITIONS**

- 1 The development hereby permitted shall begin not later than three years from the date of planning permission ref: W/23/0975, i.e. 22/09/2023. **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) 23124 - 1004 REV F, and specification contained therein, submitted on 28/03/2024. **Reason:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.
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