

A meeting of the above Committee will be held at Shire Hall, Market Place, Warwick on Tuesday 12 March 2024, at 6.00pm.

Councillor A Boad (Chairman)  
Councillor N Tangri (Vice Chairman)

Councillor M Collins  
Councillor L Cron  
Councillor R Dickson  
Councillor B Gifford  
Councillor M Luckhurst  
Councillor R Margrave

Councillor R Noonan  
Councillor P Phillips  
Councillor J P Sullivan  
Councillor L Williams  
Labour Vacancy

### **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.

4. **Minutes**

To confirm the minutes of the Planning Committee meeting held on 13 February 2024

**Part B – Planning Applications**

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

5. **W/23/0801 – 66 Montrose Avenue, Lillington, Royal Leamington Spa**  
**(Pages to 15)**
6. **W/23/0988 – The Old Nursery, 6 Mill Road, Royal Leamington Spa**  
**(Pages 1 to 13)**
7. **W/23/1121 – South Lodge (West Lodge), Jephson Gardens, Royal Leamington Spa**  
**(Pages 1 to 10)**
8. **W/23/1352 – 10 Park Road, Royal Leamington Spa** **(Pages 1 to 5)**
9. **W/23/1695 – 140-142 Parade, Royal Leamington Spa** **(Pages 1 to 4)**
10. **W/23/1743 – 6b Southborough Terrace, Brunswick Street, Royal Leamington Spa**  
**(Pages 1 to 5)**

Published Monday 4 March 2024

General Enquiries: Please contact the Committee Services team via email at [committee@warwickdc.gov.uk](mailto:committee@warwickdc.gov.uk). Alternatively, you can contact us at:

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

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# Planning Committee

Minutes of the meeting held on Tuesday 13 February 2024 at Shire Hall, Market Place, Warwick, at 6.00pm.

**Present:** Councillor Boad (Chairman); Councillors Collins, Cron, R Dickson, Falp, King, Kohler, Luckhurst, Noonan, Phillips, Tangri, and Williams.

**Also Present:** Committee Services Officer – Mia Matthews; Civic and Committee Services Manager – Patricia Tuckwell (observing only); Legal Advisor – Ross Chambers; Business Manager – Rob Young; Planning Assistant– Theo Collum; and Senior Planning Officer – Kie Farrell.

## 148. **Apologies and Substitutes**

- (a) There were no apologies for absence received; and
- (b) Councillor Falp substituted for Councillor Margrave, Councillor Kohler substituted for Councillor Gifford, and Councillor King substituted for Councillor Sullivan.

## 149. **Declarations of Interest**

There were no declarations of interest.

## 150. **Site Visits**

To assist with decision making, Councillor Dickson made an independent site visit to W/23/1084 – 17 Beverley Road, Royal Leamington Spa and Councillor King made an independent site visit to W/23/1461 – Milverton School Playing Field, Lillington Avenue, Milverton, Royal Leamington Spa.

## 151. **Minutes**

The minutes of the 14 December 2023 and 16 January 2024 meetings were approved and signed by the Chairman as a correct record, subject to an amendment to 16 January 2024 minutes, minute number 117 - Declarations of Interest, to read:

*Minute Number 122 – W/23/1425 - 6 Lillington Avenue, Royal Leamington Spa*

*Councillor Collins declared an interest because ~~he~~ **his friend** lived near the site of this application. However, he had an open mind and did not consider himself to be predetermined in any way.*

## 152. **W/23/1352 - 10 Park Road, Royal Leamington Spa**

This item was withdrawn from the agenda to enable the applicant to attend to speak at the meeting.

## **PLANNING COMMITTEE MINUTES (Continued)**

### **144. W/22/1651 – 2 Pinehurst, Cubbington**

The Committee considered an application from Ms Ananth for a two-storey side extension and conversion of the existing garage. This was a resubmission of planning application W/23/0558.

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

The officer was of the opinion that the proposed development would have an acceptable impact under policies BE1, BE3, and TR3, and as such, it was recommended the application should be approved.

The following people addressed the Committee:

- Mrs Looney, objecting; and
- Mr Looney, objecting.

Following consideration of the report, presentation, and representations made at the meeting, it was proposed by Councillor Collins and seconded by Councillor Tangri that the application should be granted.

The Committee therefore

**Resolved** that W/23/1651 be **granted**, subject to the following conditions:

- | <b>No.</b> | <b>Condition</b>  |
|------------|---|
| (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) 4242-02B, and specification contained therein, submitted on 15/11/2023. |

**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; and

- |     |   |
|-----|---|
| (2) | all external facing materials for the development hereby permitted shall be of the same type, texture and colour as those of the existing building. |
|-----|---|

**Reason:** To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy BE1 of the Warwick District Local Plan 2011-2029.

### **145. W/23/1628 – Warwick Arms Hotel, 17 High Street, Warwick**

The Committee considered an application from Mr Middlebrook for the laying of a new stone patio and timber sleepers over the existing patio area. This was a retrospective application.

## **PLANNING COMMITTEE MINUTES (Continued)**

The application was presented to Committee because of the number of objections received, including an objection from Warwick Town Council.

The officer was of the opinion that the proposal would not result in an unacceptable impact on the character of the surrounding area, nor would it have a harmful impact on the Warwick Conservation Area or setting of the Listed Building. Subject to conditions restricting the hours of use of the patio area and prohibiting amplified music, the proposal would not have a harmful impact on the amenity of neighbouring residential properties. The proposal was considered to be acceptable in terms of Highways Safety and Parking. The proposal was deemed acceptable, and it was recommended that the application should be approved.

An addendum circulated prior to the meeting advised that the Town Council had withdrawn its objection based on further information that had been provided, and Members' questions around drainage and enforcement had been answered by officers.

Miss Wilson addressed the Committee, objecting to the application.

Following consideration of the report, presentation, information contained in the addendum and the representation made at the meeting, it was proposed by Councillor Williams and seconded by Councillor Luckhurst that the application should be granted.

The Committee therefore

**Resolved** that W/23/1628 be **granted**, subject to the following conditions:

- | <b>No.</b> | <b>Condition</b>  |
|------------|---|
| (1)        | the development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan (WAH/02) and approved drawing WAH/03 and specification contained therein, submitted on 17th November 2023 and drawing WAH/04 submitted on 23rd November 2023. |

**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) | the patio area shall not be used/ occupied between the hours of 2200 and 0730 on any day. |
|-----|---|

**Reason:** To ensure that the use of the patio area does not result in unacceptable noise disturbance to the detriment of the amenities of the occupiers of nearby residential properties in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029; and

## PLANNING COMMITTEE MINUTES (Continued)

- | <b>No.</b> | <b>Condition</b>  |
|------------|---|
| (3)        | no speakers for the amplification of music and/or voice shall be placed in the patio area or on the outside of any building forming a part of the patio area. |

**Reason:** To ensure that the use of the proposed patio area does not cause unacceptable noise disturbance to the detriment of the amenities of the occupiers of nearby residential properties in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.

### 146. **W/23/1461 - Milverton School Playing Field, Lillington Avenue, Milverton, Royal Leamington Spa**

The Committee considered an application from Severn Trent Water Limited for the widening of an existing vehicular access (permanent) and the formation of a new access (temporary, for construction) off Lillington Avenue, Leamington Spa, required in connection with the construction of an underground storage system.

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

The officer was of the opinion that the proposal would not result in an unacceptable impact on the character of the surrounding area or amenity of any nearby neighbouring uses. Nor would it have a harmful impact on the Conservation Area, Highway Safety, or existing Trees on or adjacent to the site. Therefore, the proposal was deemed acceptable, and it was recommended by officers the application should be granted.

Following consideration of the report and presentation, it was proposed by Councillor Dickson and seconded by Councillor Collins that the application should be granted.

The Committee therefore

**Resolved** that W/23/1461 be **granted**, subject to the following conditions:

- | <b>No.</b> | <b>Condition</b>   |
|------------|--|
| (1)        | the development hereby permitted shall begin no 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 drawings 0004-S2- Rev P03, 0005-S2- Rev P01, 0006-S2- Rev P02, 0007-S2- Rev |
|-----|--|
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## PLANNING COMMITTEE MINUTES (Continued)

- | <b>No.</b> | <b>Condition</b>   |
|------------|--|
|            | <p>P02, 0008-S2- Rev P01, 0009-S2- Rev P01, and specification contained therein, submitted on 1st November 2023.</p> <p><b>Reason:</b> 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;</p>   |
| (3)        | <p>the parts of the existing brick boundary wall removed in order to provide the proposed access points shall be re-instated on completion of the works - as shown on drawing 0009-S2- Rev P01.</p> <p><b>Reason:</b> 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;</p>  |
| (4)        | <p>prior to the commencement of the development hereby approved (including all preparatory work), the tree protection measures as proposed by Ligna Consultancy in their Tree Protection Scheme document reference P3391-TPS01 V1 dated 22 September 2023 and as illustrated on their Tree Protection Plan, together referred to as the scheme of protection, shall be adopted.</p> <p>The development thereafter shall be implemented in strict accordance with the approved scheme of protection, which shall be kept in place until all parts of the development have been completed and all equipment, machinery and surplus materials have been removed.</p> <p><b>Reason:</b> 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;</p> |
| (5)        | <p>the accesses to the site hereby permitted shall not be used unless public highway footway/verge crossing have been laid out and constructed in accordance with the standard specification of the Highway Authority.</p> <p><b>Reason:</b> To secure a satisfactory form of development in the interests of highway safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029; and</p>   |

## PLANNING COMMITTEE MINUTES (Continued)

### **No.**

### **Condition**

- (6) upon completion of the works hereby permitted, all parts of the accesses within the public highway not included in the permitted means of access shall be closed and the kerb, footway and verge reinstated in accordance with the standard specification of the Highway Authority.

**Reason:** To secure a satisfactory form of development in the interests of highway safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.

#### 147. **W/23/1084 - 17 Beverley Road, Royal Leamington Spa**

The Committee considered an application from Castle Homes Warwick Real Estate for the demolition of the existing dwelling and construction of nine dwellings.

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

The proposal sought the demolition of the existing single dwelling and the erection of a new building containing eight apartments together with the provision of a new detached dwelling to the rear of the site. The development layout was nearly identical to the adjacent property at The Limes (15 Beverley Road), albeit with a more traditional approach to the fenestration.

The site also included the provision of parking and amenity space to serve the future residents together with the appropriate amount of parking spaces to serve the development. Officers had assessed the proposal to ensure that no demonstrable harm would arise to the amenity of neighbouring properties and conditions were proposed to ensure that the side-facing windows would be obscure glazed.

The County Highways Officer had also assessed the proposal and was satisfied that the development would not result in harm to highway safety.

Site specific matters were proposed to be controlled by conditions.

An addendum circulated prior to the meeting advised there could only be limited weight attached to the DPD.

Following consideration of the of the report, presentation and information contained in the addendum, it was proposed by Councillor Dickson and seconded by Councillor Falp that the application should be granted in accordance with the recommendation in the report.

The Committee therefore

**Resolved** that W/23/1084 be **granted**, subject to the following conditions:



## PLANNING COMMITTEE MINUTES (Continued)

- | <b>No.</b> | <b>Condition</b>   |
|------------|--|
| (1)        | <p>the development hereby permitted shall begin no later than three years from the date of this permission.</p> <p><b>Reason:</b> To comply with Section 91 of the Town and Country Planning Act 1990 (as amended);</p>  |
| (2)        | <p>the development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawing(s) 691-12 Rev B, 691-13 Rev A, 691-114 Rev A, 691-15 Rev A, 691-16 Rev A and 691-17 Rev OR, and specification contained therein, submitted on 25 July 2023.</p> <p><b>Reason:</b> 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;</p>  |
| (3)        | <p>the development hereby permitted shall not commence until a detailed Landscape and Ecological Management Plan has been submitted to and approved in writing by the District Planning Authority. The plan should include details of planting and maintenance of all new planting. Details of species used and sourcing of plants should be included. The plan should also include details of habitat enhancement/creation measures and management, such as native species planting, wildflower grassland creation, woodland and hedgerow creation/enhancement, and provision of habitat for protected and notable species (including location, number and type of bat and bird boxes, location of log piles). Such approved measures shall thereafter be implemented in full.</p> <p><b>Reason:</b> To ensure a net biodiversity gain in accordance with NPPF;</p> |
| (4)        | <p>the development hereby permitted shall not commence unless and until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP shall provide for: the parking of vehicles of site operatives and visitors; site working hours and delivery times; the loading and unloading of plant and materials; the storage of plant and materials used in constructing the development; the</p>  |

## PLANNING COMMITTEE MINUTES (Continued)

<b>No.</b>	<b>Condition</b>
	erection and maintenance of a security hoarding including decorative displays and facilities for public viewing where appropriate; wheel washing facilities and other measures to ensure that any vehicle, plant or equipment leaving the application site does not carry mud or deposit other materials onto the public highway; measures to control the emission of dust and dirt during construction, together with any details in relation to noise and vibration; and a scheme for recycling / disposing of waste resulting from demolition and construction works. A model CMP can be found on the Council's website:

[https://www.warwickdc.gov.uk/downloads/file/5811/construction\\_management\\_plan](https://www.warwickdc.gov.uk/downloads/file/5811/construction_management_plan)

or by searching 'Construction Management Plan'. The development hereby permitted shall only proceed in strict accordance with the approved CMP.

**Reason:** In the interests of highway safety and the amenities of the occupiers of nearby properties, the free flow of traffic and the visual amenities of the locality in accordance with Policies BE3, TR1 and NE5 of the Warwick District Local Plan 2011-2029;

- (5) notwithstanding details contained within the approved documents, prior to commencement of development, a Sustainability Statement including an energy hierarchy scheme for that phase and a programme of delivery of all proposed measures shall be submitted to and approved in writing by the Local Planning Authority. The document shall include:
- a. How the development will reduce carbon emissions and utilise renewable energy;
  - b. Measures to reduce the need for energy through energy efficiency methods using layout, building orientation, construction techniques and materials and natural ventilation methods to mitigate against rising temperatures;
  - c. Details of the building envelope (including U/R values and air tightness);
  - d. How the proposed materials respond in terms of embodied carbon;

## PLANNING COMMITTEE MINUTES (Continued)

- | <b>No.</b> | <b>Condition</b>   |
|------------|--|
| e.         | How the development optimises the use of multi-functional green infrastructure (including water features, green roofs and planting) for urban cooling, local flood risk management and to provide access to outdoor space for shading. |

No dwelling/ building shall be first occupied until the works within the approved scheme have been completed in strict accordance with the approved details and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturer's specifications.

**Reason:** To ensure the creation of well-designed and sustainable buildings and in accordance with Policies CC1 and CC3 of the Warwick District Local Plan (2011-2029) and National Design Guidance (2019);

- (6) no development above slab level shall commence unless and until a hard and soft landscaping scheme has been submitted to and approved in writing by the local planning authority.

Details of the soft landscaping works shall include a detailed schedule of all planting together with details of replacement tree planting to mitigate for the removed trees.

Details of hard landscaping works shall include boundary treatment, including full details of the proposed boundary walls, railings and gates to be erected, specifying the colour of the railings and gates; footpaths; and hard surfacing, which shall be made of porous materials or provision shall be made for direct run-off of water from the hard surface to a permeable or porous area. The hard landscaping works shall be completed in full accordance with the approved details within three months of the first occupation of the development hereby permitted; and all planting shall be carried out in accordance with the approved details in the first planting and seeding seasons following the first occupation.

Any tree(s) or shrub(s) which within a period of five years from the completion of the development dies, is removed or becomes in the opinion of the local planning authority seriously damaged, defective or diseased shall

## PLANNING COMMITTEE MINUTES (Continued)

- | <b>No.</b> | <b>Condition</b>  |
|------------|---|
|            | be replaced in the next planting season with another of the same size and species as that originally planted. All hedging, tree(s) and shrub(s) shall be planted in accordance with British Standard BS4043 - Transplanting Root-balled Trees and BS4428 - Code of Practice for General Landscape Operations.<br><br><b>Reason:</b> To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies BE1, BE3 and NE4 of the Warwick District Local Plan 2011-2029;  |
| (7)        | no development above slab level shall take place until a detailed drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the scheme shall be implemented in accordance with the approved details before the development is completed.<br><br><b>Reason:</b> To prevent the increased risk of flooding; to improve and protect water quality; to improve habitat and amenity in accordance with Policies FW1, FW2 and NE3 of the Warwick District Local Plan 2011-2029;   |
| (8)        | no development other than site clearance and site preparatory works until details of the finished floor levels of all buildings, together with details of existing and proposed site levels on the application site and the relationship with adjacent land and buildings, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with these approved details.<br><br><b>Reason:</b> To ensure sufficient information is submitted to demonstrate a satisfactory relationship between the proposed development and adjacent land and buildings in the interests of amenity in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029; |
| (9)        | no development shall be carried out above slab level unless and until samples 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.  |

## PLANNING COMMITTEE MINUTES (Continued)

### **No.**

### **Condition**

**Reason:** To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the locality in accordance with Policy BE1 of the Warwick District Local Plan 2011-2029;

- (10) the development shall not be occupied until the access for vehicles has been provided to the site not less than 5 metres in width for a distance of 7.5 metres, [as measured from the near edge of the public highway carriageway].

**Reason:** In the interests of vehicular and pedestrian safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029;

- (11) the access to the site for vehicles shall not be used unless a public highway footway/verge crossing has been laid out and constructed in accordance with the standard specification of the Highway Authority.

**Reason:** In the interests of vehicular and pedestrian safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029;

- (12) the development shall not be occupied until all parts of the existing access within the public highway not included in the permitted means of access has been closed and the kerb and verge has been reinstated in accordance with the standard specification of the Highway Authority.

**Reason:** In the interests of vehicular and pedestrian safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029;

- (13) 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) shall have been submitted to and approved in writing by the Local Planning Authority and such works, and use of that lighting and/or illumination, shall be carried out and operated only in full accordance with those approved details.

**Reason:** To ensure that any lighting is designed and operated so as not to detrimentally affect the amenities of the occupiers of nearby properties in accordance  
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## PLANNING COMMITTEE MINUTES (Continued)

- | <b>No.</b> | <b>Condition</b>  |
|------------|---|
|            | with Policy BE3 of the Warwick District Local Plan 2011-2029;   |
| (14)       | the development hereby permitted shall not be occupied until a scheme which satisfies the requirements set out in the Council's adopted Air Quality and Planning Supplementary Planning Document (January 2019) has been submitted to and approved in writing by the Local Planning Authority and implemented in full accordance with the approved details. The approved scheme shall be retained and maintained as such at all times thereafter. |
|            | <b>Reason:</b> To ensure mitigation against air quality impacts associated with the proposed development in accordance with Policy NE5 of the Warwick District Local Plan; and  |

- (15) prior to the occupation of the development hereby permitted, the window(s) in the side elevations shall be permanently glazed with obscured glass to a degree sufficient to conceal or hide the features of all physical objects from view to a minimum height of at least 1.7 metres above the finished floor level of the room in which the window is installed. The windows shall also be non-opening unless the openable element is at least 1.7 metres above finished floor level. The obscured glazed window(s) shall be retained and maintained in that condition at all times.

**Reason:** To protect the privacy of users and occupiers of nearby properties and to satisfy the requirements of Policy BE3 of the Warwick District Local Plan 2011-2029.

### 148. **Planning Appeals Report**

Members received a report from officers outlining the existing enforcement matters and appeals currently taking place. The Business Manager highlighted the 41 Portland Street decision to Members.

**Resolved** that the report be noted.

(The meeting ended at 7.13pm)

CHAIRMAN  
12 March 2024

**Planning Committee:** 12 March 2024

**Item Number:** 5

**Application No:** [W 23 / 0801](#)

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

**Registration Date:** 15/06/23

**Expiry Date:** 10/08/23

**66 Montrose Avenue, Lillington, Leamington Spa, CV32 7DY**

Erection of a two storey, 2 bedroom detached dwelling on land adjacent to 66 Montrose Avenue. FOR Mr O'Sullivan

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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.

**RECOMMENDATION**

Planning Committee are recommended to Grant planning permission, subject to the conditions at the end of this report.

**DETAILS OF THE DEVELOPMENT**

Planning permission is sought for the erection of a two storey detached dwelling with associated works including a new vehicular access from Montrose Avenue.

**THE SITE AND ITS LOCATION**

The application site lies to the north of Lillington within the Urban Area Boundary. The site lies within Flood Zone 1. The application site comprises of 66 Montrose Avenue (a dwelling which sits on a corner plot between Montrose Avenue and St Andrews Road) and its garden. The new dwelling is proposed to front onto Montrose Avenue to the northwest of the application site. Existing neighbouring dwellings adjoin the application site along all other boundaries.

**RECENT RELEVANT PLANNING HISTORY**

W/21/1552 - Erection of 1no. detached dwelling. Refused 11/02/2022. Dismissed at appeal 04/01/2023.

**Background:**

This application is a revised scheme which seeks to address the concerns raised with planning application W/21/1552 which was refused and subsequently dismissed at appeal. The key concerns with application W/21/1552 related to the impact of the development on the amenity of neighbouring dwellings which also related to the principle of the development.

The Covering Letter submitted with this application states that the following changes have been made in response to the concerns raised with W/21/1552:

- The dwelling has been reduced in width, footprint and mass;
- Reference is made to the orientation of number 66 Montrose Avenue and the design is considered by the Agent to adhere with the 45 degree test;
- The first floor rear facing window has been removed; and
- Overlooking impacts on number 35 St Andrew's Road have been considered.

Due to the age of this appeal decision and similarities with this application, this is a material consideration which officers afford significant weight.

During the course of this application amendments were received. The amendments included an updated Sunlight Assessment and a Biodiversity Net Gain assessment. This revised information was subject to a full re-consultation with all consultees and Neighbours.

### **RELEVANT POLICIES**

- Warwick District Local Plan 2011-2029
- H1 - Directing New Housing
- BE1 - Layout and Design
- BE3 - Amenity
- TR1 - Access and Choice
- TR3 - Parking
- NE1 - Green Infrastructure
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- NE3 - Biodiversity
- NE5 - Protection of Natural Resources
- SC0 - Sustainable Communities
- FW2 - Sustainable Urban Drainage
- FW3 - Water Conservation
- FW4 - Water Supply
- CC1 - Planning for Climate Change Adaptation
- BE5 - Broadband Infrastructure
- National Planning Policy Framework
- Royal Leamington Spa Neighbourhood Plan 2019-2029
- RLS1 - Housing Development Within the Royal Leamington Spa Urban Area
- RLS2 - Housing Design
- RLS4 - Housing Character Outside the Conservation Areas
- RLS12 - Air Quality
- Guidance Documents
- Residential Design Guide (Supplementary Planning Document- May 2018)
- Parking Standards (Supplementary Planning Document- June 2018)
- Air Quality & Planning Supplementary Planning Document (January 2019)
- The 45 Degree Guideline (Supplementary Planning Guidance)

### **SUMMARY OF REPRESENTATIONS**

Ward Members: Cllr Russell- Objects to the development for the following planning reason:



- Based on possible over-development and impact on amenities of near neighbours (21/07/2023).

Royal Leamington Spa Town Council: Objects the application for the following planning reasons (summarised by the case officer):

Overdevelopment; Impact of development on amenity of neighbouring dwelling's; and ecology concerns that the applicant has not demonstrated how the development will provide for net gains in biodiversity.

A site visit is requested should officers be minded to support the application and it be triggered to Planning Committee (07/07/2023 and 21/01/2024).

WCC Ecology: Recommend refusal as the applicant has failed to demonstrate that the proposal will not result in net biodiversity gain (22/01/2024).

WCC Highways Authority: No objection subject to conditions (18/07/2023).

WCC Lead Local Flood Authority: Objection based on insufficient information (23/01/2024).

WDC Waste Officer: No objection (21/06/2023).

**Public Response-**29 letters of objection were received in response to the application which raised the following planning considerations:

- Concerns regarding the need for the development;
- Impact on character of the area, including loss of garden, scale in relation to neighbouring buildings, overdevelopment, at odds with character of the area and design out of place;
- Concerns regarding the impact on neighbouring properties' amenity through loss of privacy/overlooking, loss of light, overbearing impacts, light pollution, noise and impacts during construction;
- Queries regarding the Sunlight Assessment;
- Concerns regarding the amenity of future occupiers of the new dwelling and 66 Montrose Avenue in relation to the size of the gardens proposed;
- Impact on highway safety including pedestrian (including school children) and cyclist safety and concerns regarding the proximity of the site to the existing bus stop and impact on existing on-street parking constraints and concerns regarding construction;
- Air quality impacts due to increased traffic generation;
- Impact on wildlife, including bats and loss of garden land;
- Flooding impacts including concerns regarding the foul drainage capacity and surface water drainage due to the existing ground conditions;
- Concerns regarding the impacts on the existing water and drainage infrastructure;
- Absence of assessments to accompany the application including a Landscape Assessment, Arboricultural Assessment, Ecological Report, Daylight Assessment and Transport/Highways Assessment and queries

regarding the submitted plans (letter dated prior to this application was submitted);

- The proposal is not designed to reduce crime or fear of crime;
- The Applicant has not demonstrated that the proposal will meet climate change requirements; and
- Reference to decision at 68 Montrose Avenue.

Other non-planning matters were also raised.

## **ASSESSMENT**

### Principle of development

The application site lies within the Urban Area Boundary as identified by the Local Plan. As such, Policy H1 is relevant to the principle of the development and supports residential development within the Urban Area Boundaries.

The application site comprises of a parcel of garden land and Policy H1 further states that development on garden land will not be permitted unless the development reinforces or harmonises with the established character of the area.

Policy RLS1 of the NDP states that proposals for new housing development within the Urban Area, will be supported in certain circumstances. Based on the information provided the development is not considered to meet the requirements of parts 1., 3. or 4. of Policy RLS1.

However, part 2. of Policy RLS1 relates to infill developments and supports proposals that are of an appropriate scale and that do not lead to the loss of residential gardens (unless in accordance with Policy H1), overdevelopment or proposals which have a significant adverse impact on the amenity of existing occupiers and users.

Having regard to the above, the principle of the development may be supported by Policy H1 and Policy RLS1 of the NDP, subject to the relevant criteria being met.

Other material considerations are addressed below.

### Character, Design, Distinctiveness and Landscape

The site lies in a residential area and the streetscene is considered to include semi-detached and similar scale dwellings. Montrose Avenue is considered to be open and spacious in character with tree lined roads with grass verges.

Dwellings within the locality of the site are predominantly set back from the road with private driveways and low boundary treatments. Neighbouring dwellings are generally two storey in height; with some dwellings having been extended over

time. Design features within the streetscene include hipped roofs, canopies and chimneys with materials including brick, tile, some tile hanging and render.

The application site lies within Lillington and forms a parcel of garden land set to the rear of 66 Montrose Avenue which lies on a corner plot with St Andrews Road.

The new dwelling is detached and two storey in height with a hipped roof and forward projecting gable with canopy. The new dwelling will have a ridge height of approximately 7.8m which is lower than the neighbouring dwellings located to the north and south. The proposed eaves will match the closest dwellings within the streetscene and the new dwelling will be finished in brick under a tile roof.

To the rear of the new dwelling a two storey element is proposed with a wrap around single storey element with monopitched roof. The new accommodation comprises of two bedrooms at first floor with bathroom and at ground floor the accommodation provided includes a sitting room, W/C and open plan kitchen/living area which will be served by bi-fold doors into the garden.

The application site is flat in nature and the new dwelling is set back into the site in line with the built form to the south with a parking and garden area fronting the road. The dwelling will be set approximately 1m from the boundary to the south and approximately 5m from the built form to the north, with a new garden proposed to the east of the new dwelling. Officers consider that the proposal will meet the back to back and back to side distances set out in the Council's Residential Design SPD when considering separation distances.

As part of the previous application (reference W/21/1552) officers did not consider that the proposal, by virtue of filling the existing gap, would diminish the open character of the wider streetscene as it was considered that the open character was derived from the width of the road and set back nature of the dwellings. This therefore did not form a reason for refusal of application W/21/1552.

During the course of the application concerns have been raised regarding the density of the development and the impact on the character of the area. Whilst officers accept that the proposed new dwelling will have a garden which is smaller than the immediate neighbours and the proposal will infill an existing parcel of garden land, the new dwelling by reason of its siting, height and scale is not considered to result in harm to the open character of the streetscene or harm to the overall character of the area.

When considering the design and materials of the new dwelling officers consider that the proposal will reflect the design cues and materials experienced within the locality of the site. The garden contains limited vegetation and a small tree which is proposed to be retained as part of the development. Officers consider it reasonable to recommend that details of the external materials and landscaping be secured via planning condition to ensure a satisfactory finish.

Having regard to the above and subject to conditions officers consider that the proposal will not result in harm to the character of the area having regard to

Policies H1 and BE1 of the Local Plan and Policies RLS1 and RLS4 of the NDP respectively.

### Residential Amenity

The application site has several close neighbouring dwellings including number 64 Montrose Avenue located to the south of the site and number 66 Montrose Avenue located to the north of the new dwelling (within the application site). To the east of the site lie 37, 35 and 33 St Andrews Road which have gardens located to the south of the new dwelling. Opposite the site to the west lie neighbouring dwellings which front Montrose Avenue.

During the course of the application concerns have been raised regarding the impact of the development on the amenity of neighbouring dwellings and the amenity of future occupiers of both the new dwelling and 66 Montrose Avenue.

### Overlooking/ loss of privacy

The site plan identifies that a 1.8m timber fence will be erected along the northern boundary and eastern boundary. Officers consider that this boundary treatment will prevent overlooking from ground floor windows, and that an unacceptable overlooking impact will not occur from any ground floor windows due to the distances and positions of the garden and new ground floor windows to neighbouring properties. Furthermore, it is recommended that these boundary treatments can be secured via planning condition as part of the landscaping condition.

The proposed dwelling will introduce one side and one rear first floor window which both serve non-habitable areas (a landing and bathroom respectively). Officers further consider it reasonable to obscure glaze the bathroom window and landing window proposed and limit the opening via planning condition to protect the amenity of the neighbouring dwelling's amenity.

Officers are satisfied that any future side first floor facing windows under permitted development will need to be obscure glazed and have limited opening and therefore it is not considered necessary to restrict any new upper side facing windows via planning condition. Officers do however consider it reasonable to restrict any upper floor rear facing windows to prevent adverse overlooking impacts occurring in the future. Due to the limited roof space officers do not consider that it would be necessary to limit rooflights or dormers windows via planning condition.

### Overbearing Impacts

The Council's Residential Design Guide sets out the definition of habitable rooms for the purposes of planning assessments. Furthermore, the SPD sets out a 45 degree test to assist in considering any overbearing harm and states that breaches of the 45 degree line which occur at a distance of 8m or more will generally be considered not to result in material harm to light and outlook.

To the south of the application site 64 Montrose Avenue does not have any side windows facing towards the site and as such the proposal is not considered to result in an adverse overbearing impact on this neighbouring property's amenity.

66 Montrose Avenue has rear facing habitable windows which face towards the application site however the closest habitable window is set more than 8m away from the new dwelling. The proposal is therefore not considered to result in an adverse overbearing impact on this property's amenity. The closest window to the site on the rear of the single storey projection of 66 Montrose Avenue is a non-habitable window and therefore the 45 Degree Guideline does not apply to this window.

Due to the siting, design and size of the new dwelling the development is not considered to result in a breach of any other 45 degree lines from neighbouring habitable windows and officers are satisfied that an overbearing impact will not occur on the private amenity spaces or habitable windows of neighbouring dwelling's due to the siting, height and size of the new dwelling.

#### Overshadowing Impacts

The application has been submitted with A Daylight, Sunlight and Overshadowing Assessment which has been updated during the course of the application in response to comments raised regarding discrepancies. As part of the assessment the extension to 35 St Andrews Road (reference W/18/0833) has been considered.

The assessment has been carried out in accordance with the BRE Guidance (Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice) 2022 and Daylight in buildings, BS EN 17037.

The Daylight assessment has excluded 75 and 77 Montrose Avenue as they are considered to be too far away to result in an adverse loss of light. Which officers consider to be acceptable.

The Daylight assessment considers the impact of the development on 66 Montrose Avenue, 37 St Andrews Road and 35 St Andrews Road. The report concludes that sufficient natural daylight will be received in the habitable rooms identified.

With respect to overshadowing the assessment identifies that the rear gardens surrounding the site will continue to receive at least two hours sunlight on the 21<sup>st</sup> March and therefore are expected to be adequately lit through the year.

Having regard to the above, officers consider that the proposal will not result in an unacceptable overshadowing impact on neighbouring properties' amenity areas or habitable windows having regard to Policy BE3, NDP Policy RLS1 and paragraph 135 of the NPPF.

#### Noise and Disturbance

The proposal by reason of its use is not considered to result in an unacceptable impact through adverse noise and disturbance on the amenity of neighbouring dwellings.

Concerns have been raised regarding the impact of the development on neighbouring properties' amenity during the construction period, should planning permission be forthcoming. A Construction Management Plan (CMP) has not been recommended by WCC Highways Authority and due to the scale of the development it is not considered reasonable to secure a CMP via planning condition.

#### Air Quality

The application has been submitted with an Air Quality Statement which advises that a new EVCP will be provided for future occupiers. Officers consider it reasonable to secure this via planning condition in line with Policy TR1 and the Council's Air Quality SPD. With respect to air quality, the proposal does not fall within the Royal Leamington Spa Air Quality Management Area having regard to Policy RLS12 of the NDP.

#### Amenity for future occupiers (including 66 Montrose Avenue and new dwelling)

The Council's Residential Design SPD sets out minimum standards for gardens and states that regard should be given to the shape and usability. Officers are satisfied that sufficient garden space will be provided for the existing occupiers of 66 Montrose Avenue and the future occupiers of the new dwelling including parking, bin and waste storage. Furthermore, the Council's Waste Officer has raised no objection to the development.

When considering the design of the new dwelling officers consider that there will be sufficient windows to provide natural light and ventilation for future occupiers in line with Policy BE3.

Having regard to the above and subject to appropriate conditions, officers do not consider that the development will result in an unacceptable adverse impact on the amenity of neighbouring dwellings through adverse overlooking, overshadowing or overbearing or adverse surroundings. Furthermore, the proposal is considered to provide a satisfactory level of amenity for future occupiers. The proposal is therefore considered to accord with Policy BE3, Policy RLS1 of the NDP and paragraph 135 of the NPPF in this regard.

#### Highways Matters (including access and parking)

The proposal seeks to create a new vehicular access from Montrose Avenue and create two parking spaces for the new dwelling. The existing vehicular access and parking associated with 66 Montrose Avenue is proposed to be retained in its current form. Cycle storage is shown on the proposed site plans for the new dwelling and 66 Montrose Avenue with pedestrian access available down the side of each property.

During the course of the application concerns have been raised about the proximity of the site to the bus stop, the impact of the development on the existing

on-street parking and the impacts the proposal can raise in relation to highway safety.

In response to the development no objection is raised by WCC Highways subject to conditions and notes which relate to drainage within the public highway, footway/verge crossing details and visibility splays.

Officers are satisfied that sufficient off-street vehicle and cycle parking will be available for the new dwelling and 66 Montrose Avenue in line with the Council's Parking Standards SPD, Policy TR3 and NDP Policy RLS4.

The Highway Authority recognise that the works will require the removal a telegraph pole and associated apparatus, bus stop and BT cabinet to facilitate the new vehicular access which officers consider will fall outside of the planning process.

Due to the scale of the development the proposal is not considered to require a contribution towards infrastructure having regard to NDP Policy RLS13.

Based on the information provided, the proposal is not considered to give rise to any adverse harm to highway safety and is considered to provide sufficient parking for future occupiers in line with Policies TR1 and TR3 of the Warwick District Council Local Plan, NDP Policy RLS4 and paragraph 114 of the NPPF in this regard.

#### Impacts on Ecology and Biodiversity

The application has been submitted with a Preliminary Ecological Appraisal (PEA) by Arbtech dated November 2023 and Biodiversity Net Gain Assessment dated December 2023.

The application site does not lie within a designated site of local or national biodiversity importance. The PEA identifies that there are no statutory designated sites within 2km of the application site and the Biodiversity Net Gain Assessment states that in order to achieve a net gain in biodiversity additional or alternative landscaping should be explored. The report recognises that there is limited scope to achieve this net gain on site or adjacent with the current arrangement given the size of the site and limited amount of soft landscaping.

In response the development WCC Ecology has assessed the submitted Ecological reports but considers that a post development habitat map and habitat figures are required to demonstrate the biodiversity unit figure of loss for the site.

Policy NE3 of the Local Plan states that development should not result in any net loss in biodiversity and where possible a net gain. Furthermore, Policy 180 of the NPPF states that proposals should result in net gains for biodiversity.

Concerns have been raised during the course of the application by the Town Council and third parties regarding the impact of the proposal on ecology grounds.

As part of the previous application, officers were satisfied that a condition could be imposed to secure details of biodiversity enhancements and to protect the

existing vegetation within the site (which officers consider can be addressed through a landscaping condition).

Having regard to the above, and the significant weight afforded to the previous decision which is directly applicable to this proposal, officers are satisfied that the proposal will not result in harm to protected or notable species and subject to conditions, in line with the previous application, will meet the requirements of Policies NE1, NE2, NE3, SC0, NE5 of the Local Plan, paragraph 180 of the NPPF and the duties set out in The Natural Environment and Rural Communities Act (2006).

### Flood Risk and Water Environment

The application site lies in Flood Zone 1 which has the lowest probability of flooding. The proposal seeks to connect to the existing mains sewer and surface water is proposed to be managed through soakaways.

In response to the consultation, concerns have been raised in relation to the capacity of the existing foul drainage sewer and concerns have been raised in relation to surface water drainage due to the existing land conditions.

In response to the application the LLFA has raised concerns that the details provided with the application do not meet the requirements set out in the NPPF and NPPG. The LLFA recommends that soakaway testing is provided or an alternative disposal method proposed, should an infiltration based approach be unviable.

As part of planning application, W/21/1552 officers recommended that details of foul and surface water be conditioned. Officers therefore consider that this is reasonable and consider that subject to suitable conditions the development will not give rise to an adverse impact in relation to surface water or foul drainage. Officers are further satisfied that an adequate water supply will be able to serve the development and water efficiency measures can be secured via planning condition to meet Policy FW3.

Having regard to the above and subject to suitable conditions, the proposal is considered to accord with Policies BE1, SC0, FW2, FW3 and FW4 of the Warwick District Council Local Plan, and paragraph 165 of the NPPF in this regard.

### Climate change and mitigation

In line with Policy CC1 all development should be designed to 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. Based on the plans provided it is considered that the new dwelling will benefit from natural ventilation and not give rise to increased flooding.



NDP Policy RLS2 seeks to encourage proposals to adopt a higher environmental standard of building design and energy performance. A condition is recommended to require the submission of a Sustainability Statement to address the requirements of Policies CC1 and RLS2.

In addition to the above, Policy BE5 seeks to encourage on-site infrastructure for the provision of broadband in both residential and employment development. Officers are satisfied that this could be provided for future occupiers.

### Other matters

Reference is made within the Third Party representations to the planning application adjacent to 68 Montrose. Planning permission was refused (reference W/93/0361) for the erection of a three bedroom, two storey dwelling set adjacent to 68 Montrose Avenue which lies directly to the north of the application site. The application was refused on character grounds.

This is a material consideration within the officer assessment and whilst it is accepted that there are some similarities between the development considered by W/93/0361 and this proposal (as both new dwellings being set within the garden of a corner plot, are two storey in height and have access from Montrose Avenue), this dwelling is considered to be materially different by reason of its size, design and relationship with neighbouring dwellings. In addition, it is noted that the age of this decision is prior to the current Local Plan being adopted. For these reasons limited weight is afforded to this decision by officers within the assessment.

### Covenants

Third party representations raised concerns that the development will not be in line with existing covenants. However, this would be not represent a material planning consideration.

## **CONCLUSION AND PLANNING BALANCE**

Planning permission is sought for the erection of a new detached dwelling within an existing garden within the Urban Area Boundary.

Subject to conditions and notes, officers do not consider that the development will give rise to any adverse impacts in relation to the character of the area, residential amenity, highways matters including parking, flood risk, ecology and biodiversity or climate change and mitigation. The principle of the development is therefore considered to be supported by Policy H1 and NDP Policy RLS1.

Having regard to the above, the development is considered to represent a sustainable form of development and it is therefore recommended that planning permission is 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 and approved drawing(s) unless otherwise required by a planning condition associated with this decision:
  - Plans, Elevations and Sections (Dwg No: 1045-07); and
  - Site/Block Plan (Dwg No: 1045-06)

Received by the Local Planning Authority on 1st June 2023.

**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 samples 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 in accordance with Policy BE1 of the Warwick District Local Plan 2011-2029.
- 4 The development hereby permitted shall not commence unless and until a hard and soft landscaping scheme has been submitted to and approved in writing by the local planning authority. Details of hard landscaping works shall include boundary treatment, including full details of the proposed boundary walls, railings and gates to be erected, specifying the colour of the railings and gates; footpaths; and hard surfacing, which shall be made of porous materials or provision shall be made for direct run-off of water from the hard surface to a permeable or porous area.

The hard landscaping works shall be completed in full accordance with the approved details within three months of the first occupation of the development hereby permitted and the boundary treatments along the northern and eastern shall be retained in perpetuity.

All planting shall be carried out in accordance with the approved details in the first planting and seeding seasons following the first occupation. Any tree(s) or shrub(s) which within a period of five years from the completion of the development dies, is removed or becomes in the opinion of the local planning authority seriously damaged, defective or diseased shall be replaced in the next planting season with another of the same size and species as that originally planted. All hedging, tree(s) and

shrub(s) shall be planted in accordance with British Standard BS4043 - Transplanting Root-balled Trees and BS4428 - Code of Practice for General Landscape Operations.

**Reason:** To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area and to protect the amenity of neighbouring dwellings in accordance with Policies BE1, BE3 and NE4 of the Warwick District Local Plan 2011-2029.

- 5 No development shall commence unless and until details of surface and foul water drainage works have been submitted to and approved in writing by the local planning authority. The development shall be carried out in strict accordance with the approved details. **Reason:** To ensure that adequate drainage facilities are available for the satisfactory and proper development of the site in accordance with Policies BE1 and FW2 of the Warwick District Local Plan 2011-2029.

- 6 The access 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.

- 7 The access to the site for vehicles shall not be used unless a public highway footway/verge crossing has been laid out and constructed in accordance with the standard specification of 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.

- 8 The development shall not be occupied until visibility splays have been provided to the vehicular access to the site passing through the limits of the site fronting the public highway with an 'x' distance of 2.4 metres and 'y' distances of 43 metres to the near edge of the public highway carriageway. No structure, tree or shrub shall be erected, planted or retained within the splays exceeding, or likely to exceed at maturity, a height of (specify) 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.

- 9 The development hereby permitted shall not be occupied unless and until the refuse and recycling storage areas for the development have been constructed or laid out in strict accordance with the approved plans and made available for use by the occupants of the development. Thereafter

those areas shall be kept free of obstruction and be available at all times for the storage of refuse and recycling associated with the development.

No dwelling shall be occupied unless and until it has been provided with the appropriate refuse containers necessary for the purposes of refuse, recycling and green waste, in accordance with the Council's specifications.

Refuse and recycling storage containers must be stored within the refuse and recycling storage area shown on the approved plans, unless when being presented on street for collection facilities.

**Reason:** To ensure the satisfactory provision of refuse and recycling storage facilities in the interests of amenity and the satisfactory development of the site in accordance with Policy BE1 of the Warwick District Local Plan 2011-2029.

- 10 The development hereby permitted shall not be occupied unless and until a scheme showing how a water efficiency standard of 110 litres per person per day based on an assumed occupancy rate of 2.4 people per household (or higher where appropriate) will be achieved has been submitted to and approved in writing by the Local Planning Authority. No dwelling/ unit shall be first occupied until the works within the approved scheme have been completed for that particular dwelling / unit in strict accordance with the approved details and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturer's specifications. **Reason:** To ensure the creation of well-designed and sustainable buildings and to satisfy the requirements of Policy FW3 of the Warwick District Local Plan 2011-2029.
- 11 Prior to the occupation of the development hereby permitted, the first floor bathroom window in the south east elevation and the first floor landing window on the north east elevation shall be permanently glazed with obscured glass to a degree sufficient to conceal or hide the features of all physical objects from view and shall be non-opening unless the parts of the window that can be opened are more than 1.7 metres above the floor of the room in which the window is installed. The obscured glazed window(s) shall be retained and maintained in that condition at all times. No additional windows shall be installed within the rear (south east elevation) without express planning permission.
- Reason:** To protect the privacy of users and occupiers of nearby properties and to satisfy the requirements of Policy BE3 of the Warwick District Local Plan 2011-2029.
- 12 Prior to the occupation of the dwelling(s) hereby permitted, one 16amp (minimum) electric vehicle recharging point (per dwelling) shall be installed in accordance with details first submitted to and approved in writing by the Local Planning Authority (LPA). Once the electric vehicle

recharging point(s) has been installed, the following verification details shall be submitted to and approved in writing by the LPA: (1). Plan(s)/ photograph(s) showing the location of the electric vehicle recharging point(s); (2). A technical data sheet for the electric vehicle recharging point infrastructure; and (3). Confirmation of the charging speed in kWh. Thereafter the electric vehicle recharging point(s) shall be retained in accordance with the approved details and shall not be removed or altered in any way (unless being upgraded). **Reason:** To ensure mitigation against air quality impacts associated with the proposed development in accordance with Policy NE5 of the Warwick District Local Plan and the Air Quality and Planning Supplementary Planning Document.

13 The development hereby permitted shall not be occupied unless and until:

(a) details of biodiversity enhancements to achieve a net gain in biodiversity have been submitted to and approved in writing by the local planning authority; and

(b) the biodiversity enhancement measures approved under (a) have been completed in strict accordance with the approved details, with the exception of any planting, which must be completed within the first planting season following first occupation.

The biodiversity enhancement measures shall thereafter be retained and maintained in strict accordance with the approved details in perpetuity.

**Reason:** To ensure net gains in biodiversity, in accordance with the requirements of the NPPF.

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**Planning Committee:** 12 March 2024

**Item Number:** 6

**Application No:** [W 23 / 0988](#)

**Town/Parish Council:** Leamington Spa  
**Case Officer:** Millie Flynn

01926 456140 millie.flynn@warwickdc.gov.uk

**Registration Date:** 27/07/23

**Expiry Date:** 21/09/23

**The Old Nursery, 6, Mill Road, Leamington Spa, CV31 1BE**

Erection of replacement dwelling FOR D & J. Whitehead

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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 application seeks permission for the erection of a replacement dwelling at The Old Nursery, 6 Mill Road.

**THE SITE AND ITS LOCATION**

The application site is positioned on the north side of Mill Road and is located within the Royal Leamington Spa Conservation Area and Flood Zone 3. Mill Road originally acted as a service road to serve the large dwellings and their garages fronting Leam Terrace. The street scene is now characterised by large, spacious plots, with some three storey apartment blocks and large dwellings which are positioned close to the application site, with single storey garages opposite to the application site. Mill Gardens and the River Leam are located to the north-east of the site.

**PLANNING HISTORY**

No relevant planning history.

**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
- TR1 - Access and Choice
- TR3 - Parking
- HE1 - Protection of Statutory Heritage Assets
- HE2 - Protection of Conservation Areas

- NE5 - Protection of Natural Resources
- FW2 - Sustainable Urban Drainage
- FW1 - Development in Areas at Risk of Flooding
- H1 - Directing New Housing
- FW3 - Water Conservation
- CC1 - Planning for Climate Change Adaptation
- Guidance Documents
- Residential Design Guide (Supplementary Planning Document- May 2018)
- Parking Standards (Supplementary Planning Document- June 2018)
- Air Quality & Planning Supplementary Planning Document (January 2019)

## **SUMMARY OF REPRESENTATIONS**

**Royal Leamington Spa Town Council:** No objection.

**WDC Conservation Officer:** No objection, subject to condition.

**WCC Highways:** No objection, subject to advisory notes.

**WCC Ecology:** No objection, subject to conditions.

**WCC LLFA:** Object to the proposal until further information is provided (awaiting re-consultation response).

**Environment Agency:** No objection, subject to conditions.

**WCC Landscape:** Objects to the proposal.

**WDC Waste Management:** No objection.

**WDC Environmental Health:** No objection, subject to conditions.

**WDC Tree Officer:** No objection, subject to condition.

### **Public Response:**

13 support comments have been received on the following grounds;

- Eco-friendly design, which acknowledges Flood Risk.
- The proposal makes use of the existing large garden.
- Existing property has no architectural merit and is out of keeping with the streetscene.
- High quality design and materials.
- The proposal is considered a positive addition to Mill Road.
- Unique

6 objections have been received on the following grounds:

- Reduction in the existing large garden.
- Second floor is reminiscent of a watchtower.
- The proposal does not harmonise with the existing landscape.
- Loss of privacy.

- The proposal causes overlooking.
  - The proposal is out of keeping with the character of the area.
- Impacts on streetscene.

## **ASSESSMENT**

The main issues relevant to the consideration of this application are as follows:

- Principle of development
- The impact on the character and appearance of the Conservation Area.
- The impact on the living conditions of nearby dwellings and living conditions for the future occupiers
- Parking and highway safety
- Ecological Impacts
- Landscape/Trees
- Drainage/Flood Risk
- Waste
- Contaminated Land
- Sustainability
- Other Matters

### The principle of development

Local Plan Policy H1 directs new housing to the urban areas. The application site is located within the urban area of Royal Leamington Spa. The proposal seeks to erect 1no. replacement dwelling on Mill Road. Given that the application site is located within an urban area and is for a replacement dwelling, the principle of development is acceptable.

The proposal is therefore considered to comply with Local Plan policy H1.

### Design and Impact on the character of the surrounding Conservation Area

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. 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 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 states that development will not be permitted if it would lead to substantial harm to the significance of a designated heritage asset. Where the 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. The explanatory text for HE1 clarifies that in considering applications relating to Conservation Areas, the Council will require that proposals do not have a detrimental effect upon the integrity and character of the building or its setting, or the Conservation Area.



Policy HE2 states that consent for total demolition of unlisted buildings will only be granted where the detailed design of the replacement can demonstrate that it will preserve or enhance the character or appearance of the conservation area. 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.

Policy BE1 states that new development will be permitted where it positively contributes to the character and quality of its environment through good layout and design. Development proposals should demonstrate that they harmonise with, or enhance, the existing settlement in terms of physical form so that the established character of the streetscene is respected. BE1 states that in order to do this the development should adopt appropriate materials and details and respect the surrounding buildings in terms of scale, height, form and massing.

Policy RLS3 of the Royal Leamington Spa Neighbourhood Plan requires proposals that are within or directly affect the Conservation Area to demonstrate that they harmonise with the existing character of the area in terms of design, scale and external facing materials. The policy supports the retention, restoration and reinstatement of period details.

Objections have been received with concerns regarding the reduction/ loss of the existing large garden and further concerns that the proposal is out of keeping with the existing character of the area.

The character of Mill Road, and in particular the side of the road where the proposed dwelling would be positioned, is one of spacious plots, with large amenity areas. To the east and west of the site is Cecil Court and Milford Court, both are large, three storey apartment blocks which again benefit from ample amenity areas to the rear and front of the sites. On the other side of the road, the character does differ, with large terraced properties which front onto Leam Terrace and their garages which are accessed from Mill Road.

The existing dwelling is not considered to make a positive contribution to the Conservation Area and the location itself is somewhat more open to accommodating a modern design structure due to the mixture of age and design of the buildings within the vicinity. That being said, it does lie within the Royal Leamington Spa Urban Conservation Area and has Jephson Gardens, which is a Grade II Registered Park and Garden under the grouping of the Spa Gardens, to the rear as well as being in the wider setting of the rear of the listed buildings to Leam Terrace. As such, care and sensitivity is also required in consideration to form, massing and impact.

It should be noted that since the submission of the original application, the second floor and chimney have been removed, bringing down the ridge height to that of the existing building. The garage originally proposed to the east has also been omitted.

Initially Officers considered the overall massing and scale of the proposed dwelling to compete with the neighbouring structures, a form, height and shape typical of a 1960's block of flats, but not a detached dwelling. The proposal has subsequently

been amended to reduce the overall height and scale of the building to that of the ridge level of the existing bungalow. Officers consider that such a height has less visual impact in terms of mass within the skyline of the Conservation Area and is considered more acceptable.

Officers considered that the initial tiered effect of three storeys resulted in an awkward, stacked effect, which was considered to negatively impact upon the Conservation Area. The proposal has been reduced to a two-storey development, with the existing chimney and terrace omitted from the scheme. Officers considered such features to be overbearing and stark against the existing streetscene and the leafy landscape which surrounds the site. The amended scheme is now considered acceptable.

The proposed structure will be set well back from the road and the character and appearance of the street scene is considered to be maintained as the proposed boundary wall will align with the existing height. It is noted, however, that the replacement dwelling will utilise space currently occupied by the large existing garden at the site. This site was previously a commercial garden and the legacy of this will be retained to the side garden and via the preservation of the vine house, with ample amenity space for a single dwelling maintained. Officers support the use of the reclaimed Leamington red brick for the proposed boundary walls, such features are considered to be in keeping with the existing streetscene along Mill Road and an improvement on the existing situation. Initially a high brick wall was proposed to the street facing boundary wall, however this was not considered appropriate, as it closes off the front area to the site and would create a jarring presence between two open spaces either side. The plans have been amended to leave this feature at its existing height and use landscaping to offer additional height and privacy for the future occupiers. The garage has also been omitted to allow for a greater sense of openness either side of the proposed dwelling.

In terms of the impact on the setting of the Registered Park and Garden, it is noted that the proposed replacement dwelling is well screened by established tall trees, that are also protected, due to their location within the boundary of the park. Officers also note that the proposal aligns with the existing skyline of the flat modern roofs within the Mill Road and the proposal will be set at the ridge height of the existing bungalow, therefore its impact on the Registered Park and Garden is considered to be acceptable.

The proposal also sits within the wider rear setting of the listed heritage assets in Leam Terrace, and Officers consider the proposal would not result in material harm to this setting, as it sits within an area of modern development to the opposite side of the road, set away from the streetscene. It is also noted that the existing bungalow is considered out of character and more visibly intrusive in terms of material and form.

Due to the mixed architectural character of this location, the site allows for some innovation in form and features and this proposal is considered to achieve a building which has high environmental credentials whilst sitting comfortably within the Conservation Area as a piece of contemporary design. However, it is acknowledged that this design is site-specific and that were there an established architectural grammar within this location, a more traditional form may be more appropriate. The application has been considered both on the merits of the

potential building and the diverse nature of the setting to ensure a positive outcome is achieved for both the site and the wider Conservation Area.

Officers consider that the proposal will preserve the character and appearance of the Conservation Area. The development would therefore be in accordance with the aforementioned policies.

#### The impact on the living conditions of nearby dwellings and living conditions for the future occupiers of the site

##### *Impact on Neighbouring Amenity*

Local Plan Policy BE3 states that development will not be permitted that has an unacceptable adverse impact on the amenity of nearby uses and residents. This is supported by the Council's Residential Design Guide SPD which provides further information in this respect, though, for example, the provision of minimum separation distance standards and guidance on the 45° guideline, to secure adequate levels of light, outlook and privacy.

Objections have been received with concerns regarding loss of privacy and overlooking created by the proposal.

As previously noted, the proposal has been amended since the original submission to omit the terrace at first floor level. The neighbouring gardens serve the flats adjacent to the application site and not single dwellinghouses. Therefore, it is considered this space is more akin to functional communal space rather than private amenity space. Therefore, Officers consider the proposal would not result in loss of privacy.

Officers note that there is a breach of 45 degree line when taken from the nearest habitable window at Milford Court. However, given that the proposal would be positioned beyond 8.0m away, as specified in the Council's Residential Design Guide SPD at such a distance breaches will not usually be considered to result in material harm. This is the same for the neighbouring property at Cecil Court. Therefore, in this instance the breach of the 45-degree line is considered not to cause harm to the amenity of neighbouring properties in terms of loss of light or outlook.

The separation distances between the proposed dwelling and the existing properties are considered to be acceptable. The Council's Residential Design Guide SPD stipulates that the minimum separation distance required where properties share a front-to-front relationship across a highway is 15.0m, the distance from No. 8 -12 Millfield is ~ 36.20m and the distance from No. 27 Leam Terrace is ~43.60m. Therefore, in this instance such separation distance is complied with.

The proposed dwelling also shares a side-to-side relationship with existing blocks of flats located to the east and west of the application site, which are subject to a 16.0m separation distance. The separation distances from both Milford Court and Cecil Court are over 16.0m and therefore comply with the Council's RDG SPD.

Overall, Officers consider the proposal is acceptable with regard to its impact on existing residential amenity and would not result in any harmful impacts by reason

of loss of light, loss of privacy or loss of outlook to existing neighbouring properties. The proposal accords with Policy BE3 and the Residential Design Guide SPD.

#### *Living conditions for the future occupiers of the site*

Local Plan Policy BE3 states that development will not be permitted that does not provide acceptable standards of amenity for future users and occupiers of the development. This is supported by the Council's Residential Design Guide SPD which provides further information in this respect, though, for example, the provision of minimum separation distances and minimum standards for outdoor private amenity space.

The separation distances set out in the preceding paragraph demonstrate that the dwelling is very well spaced from its nearest neighbours, such that it would provide acceptable levels of light, outlook and privacy. It should also be noted that all habitable rooms will benefit from an acceptable outlook and level of natural daylight. For the same reasons, Officers therefore consider the amenity afforded to its future occupiers would be acceptable insofar as privacy and outlook are concerned.

The dwelling proposed would provide 3-bedrooms, 3-bedroom dwellings are required to provide a minimum garden size of 50m<sup>2</sup> as set out in the Residential Design Guide SPD. The proposed site plan shows that the new dwelling would benefit from ~300m<sup>2</sup> of private rear amenity space.

Overall, Officers are satisfied that the levels of amenity afforded for future occupiers are more than satisfactory having regard to the relevant policies and supplementary guidance and as such the development complies with Policy BE3 and the Residential Design Guide SPD.

#### Car Parking and Highway Safety

Policy TR1 of the Warwick District Local Plan requires that 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 adopted Parking Standards SPD requires 3 bedroom dwellings to have 2 off-road parking spaces. The proposed site plan illustrates that these would be comfortably provided within the application site, as well as additional parking. Therefore, the parking proposed is in accordance with parking requirements set out in the SPD and is considered this is acceptable.

The Highways Authority have been consulted as part of the assessment of the application and raise no objection to the proposal, subject to the advisory notes attached.

Overall, Officers consider that the access arrangements for both vehicles and pedestrians are satisfactory and would not compromise highway safety or be

detrimental to the safety of motorists, pedestrians, cyclists, or any other road users. Moreover, in the absence of an objection from the Highway Authority, Officers are satisfied that the development accords with Policies TR1 and TR3.

### Ecological Impacts

Policy NE2 of the Local Plan seeks to protect designated areas and species of national and local importance for biodiversity and geodiversity. Policy NE3 of the Local Plan states that new development will only be permitted where it protects, enhances and/or restores habitat biodiversity.

WCC Ecology have assessed the application and the submitted documents. They note that the amended documents resolve any queries previously raised regarding the proposal. However, the County Ecologist is concerned that whatever offsetting scheme is chosen by the applicants they will need to provide sufficient documentation and management plan for the next 30 years. This can be secured via condition.

The County Ecologist has also recommended conditions in line with the recommendations of the submitted report.

In addition, WCC Ecology recommend advisory notes be attached to any planning permission to ensure the protection of nesting birds and hedgehogs affected by the proposed development. The Case Officer agrees with the recommendations and considers the imposition of informative notes regarding the protection measures to be appropriate.

Overall therefore, subject the imposition of explanatory notes, the proposed development is considered to be in accordance with Policies NE2 and NE3 of the Local Plan.

### Landscape/Trees

Policy NE4 of the Local Plan states that new development proposals should aim to either conserve, enhance or restore important landscape features in accordance with the latest local and national guidance.

The Council's Tree Officer has been consulted on the submitted tree-related documents and has concluded that the Tree Survey from TreeSafe ref:TS/JW.23 makes reasonable arguments for the tree removals to allow the proposed development to be built out as per the proposed plans, and the alignment and specification of the protective barrier fence to create the construction exclusion zone around the retained trees are good.

The Tree Officer has advised that if recommended for approval, a condition should be imposed to secure the implementation of the proposed tree protection measures set out in the report. It would be considered reasonable and necessary to impose the recommended condition.

It is noted that WCC Landscape have raised objections to the proposal and request a Landscape and Visual Appraisal Assessment (LVA) to assess the impact on the Conservation Area and further surrounding Heritage Assets. However, Officers do not consider this reasonable for the level of works proposed. It is also noted that such impacts have been assessed by both the Planning Officer and the Conservation Officer and discussed in detail above. The Landscape Officer raises concerns regarding the boundary treatments initially proposed, as such they have been amended in line with the Conservation Officers comments. Again, concerns have been raised regarding the height and scale of the development, whilst it has been reduced since the original submission of the application, the reason for its additional height is because the dwelling sits on stilts, in order to provide mitigation against further flooding due to its close proximity to the river Leam. Officers are awaiting further comments from the LLFA on this matter. Further concerns relate to tree impacts and ecological matters, however the Officers have considered comments from the relevant departments on these matters.

### Drainage/Flood Risk

The application site is located within Flood Zone 3 which has a high probability of flooding from rivers.

The Local Lead Flood Authority objected to the application due to the lack of information submitted in order to assess the application. Additional information has been submitted and the LLFA have been re-consulted. Their response remains outstanding, but will be added to the Update Report for Members in advance of the meeting.

The Environment Agency were also consulted and initially the proposal failed to include an appropriate assessment of the loss of floodplain storage volume and plans for a floodplain compensation scheme. Whilst a revised Flood Risk Assessment has not been submitted, plans detailing the flood storage volumes and compensation have been provided. Having reviewed the revised submitted details, the Environment Agency raise no objection to the proposal, subject to conditions securing the implementation of the submitted details in accordance with the 'Proposed Floodplain Compensation' Plan, as well as a condition securing the minimum height of the finished floor levels. The Case Officer agrees with the recommendations.

### Waste

In terms of waste, there are no changes to the existing arrangements. Waste and recycling storage can be accommodated within the site boundaries and out of sight of the public highway to the rear of the property. It should be noted that Waste Management have raised no objection.

### Contaminated Land

The Council's Environmental Health Officer has been consulted and notes that an unknown sewage feature was previously located in the north-east area of the development site. The suspected structure is visible on an epoch map dated circa 1843 to 1893 and is not visible on any subsequent mapping. Therefore, it is suggested that a condition is imposed to secure that a watching brief is maintained

during the development works, in the event that any historic structures or visible contamination is encountered.

### Sustainability

Policy CC1 of the Local Plan requires all development is required to be designed to be resilient to, and adapt to the future impacts of, climate change through the inclusion of the following adaptation measures where appropriate. Policy CC2 seeks to ensure proposals are designed, in terms of its location and scale, to minimise any adverse impacts on adjacent land uses and local residential amenity.

Officers are satisfied that a condition requiring submission of a Sustainability Statement will be secured to ensure compliance with Policies CC1 and CC2 of the Warwick District Local Plan.

### Water Efficiency

A condition will be added to ensure compliance with Policy FW3.

## **CONCLUSION/SUMMARY**

In the opinion of the Local Planning Authority, the amended proposal is considered acceptable in principle and are of an acceptable standard of design that would preserve the character of the Conservation Area. The proposal will not result in an unacceptable adverse impact on the amenity of neighbouring uses by reason of overbearing effect, loss of light or privacy. There is also an acceptable impact on the amenity of future occupiers. The development does not pose risk to highway safety. The proposal is therefore considered to comply with the aforementioned and is recommended for approval.

## **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) (LS)1.0.1/A, (LS)1.2/A, (LS)1.3/A, (LS)1.6/A, (LS)2.0/A, (LS)2.1/A, (LS)2.4/A, (LS)3.0/B, (LS)3.1/A, (LS)3.2/A submitted on 29th September 2023 and (LS)2.2/A submitted on 3rd November 2023 and specification contained therein. **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 Notwithstanding details contained within the approved documents, prior to commencement of development (within its relevant phase), a Sustainability Statement including an energy hierarchy scheme for that phase and a programme of delivery of all proposed measures shall be submitted to and approved in writing by the Local Planning Authority. The document shall include;

- a) How the development will reduce carbon emissions and utilise renewable energy;
- b) Measures to reduce the need for energy through energy efficiency methods using layout, building orientation, construction techniques and materials and natural ventilation methods to mitigate against rising temperatures;
- c) Details of the building envelope (including U/R values and air tightness);
- d) How the proposed materials respond in terms of embodied carbon;
- e) Consideration of how the potential for energy from decentralised, low carbon and renewable energy sources, including community-led initiatives can be maximised;
- f) How the development optimises the use of multi-functional green infrastructure (including water features, green roofs and planting) for urban cooling, local flood risk management and to provide access to outdoor space for shading,

For the avoidance of doubt, the scheme must accord with any relevant Development Plan Document and Supplementary Planning Document relating to sustainability which has been adopted by the Council at the time the scheme is submitted.

No dwelling shall be first occupied until the works within the approved scheme have been completed in strict accordance with the approved details and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturer's specifications.

**REASON:** To ensure the creation of well-designed and sustainable buildings and in accordance with Policies CC1 and CC3 of the Warwick District Local Plan (2011-2029) and National Design Guidance (2019).

- 4 Prior to the commencement of the development hereby approved (including all preparatory work), the tree protection measures in the Arboricultural method Statement in the Tree Survey report from Tree Safe reference TS/JW.23 dated 15 September 2023, as shown on their Tree Protection Plan, together referred to as the scheme of protection, shall be adopted.

The development thereafter shall be implemented in strict accordance with the approved scheme of protection, which shall be kept in place until all parts of the development have been completed and all equipment, machinery and surplus materials have been removed.

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

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- 6 The development hereby permitted shall not commence until details of all external light fittings and external light columns have been submitted to and approved by the Local Planning Authority. The development shall



not be carried out otherwise than in full accordance with such approved details. In discharging this condition the Local Planning Authority expects lighting to be kept to a minimum at night across the whole site and restricted in brightness in order to minimise impact on emerging and foraging bats. This could be achieved in the following ways:

- Narrow spectrum lighting should be used to avoid the blue-white wavelengths
- Lighting should be directed away from vegetated areas
- Lighting should be shielded to avoid spillage onto vegetated areas
- The brightness of lights should be as low as legally possible;
- Lighting should be timed to provide some dark periods;
- Connections to areas important for foraging should contain unlit stretches.

**Reason:** In accordance with NPPF, ODPM Circular 2005/06

7 No part of the development hereby permitted shall be commenced until a scheme for the provision of a bat boxes/bat roosting features to be erected on/within buildings within the site, has been submitted to and approved in writing by the Local Planning Authority. The scheme to include details of box type, location, and timing of works. Thereafter, the boxes shall be installed and maintained in perpetuity. **Reason:** In accordance with NPPF, ODPM Circular 2005/06.

8 No development shall be carried out above slab level unless and until samples 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 in accordance with Policy BE1 of the Warwick District Local Plan 2011-2029.

9 The development hereby permitted shall not be occupied unless and until the refuse and recycling storage areas for the development have been constructed or laid out in strict accordance with the approved plans and made available for use by the occupants of the development. Thereafter those areas shall be kept free of obstruction and be available at all times for the storage of refuse and recycling associated with the development.

No dwelling shall be occupied unless and until it has been provided with the appropriate refuse containers necessary for the purposes of refuse, recycling and green waste, in accordance with the Council's specifications.

Refuse and recycling storage containers must be stored within the refuse and recycling storage area shown on the approved plans, unless when being presented on street for collection facilities. **Reason:** To ensure the satisfactory provision of refuse and recycling storage facilities in the interests of amenity and the satisfactory development of the site in accordance with Policy BE1 of the Warwick District Local Plan 2011-2029.

- 10 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken, and where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority. **Reason:** To protect the amenity of future occupiers of the dwelling, in accordance with Policy BE3 of the Warwick District Local Plan 2011 - 2029.
- 11 The development hereby permitted shall not be occupied unless and until a scheme showing how a water efficiency standard of 110 litres per person per day based on an assumed occupancy rate of 2.4 people per household (or higher where appropriate) will be achieved has been submitted to and approved in writing by the Local Planning Authority. No dwelling/ unit shall be first occupied until the works within the approved scheme have been completed for that particular dwelling / unit in strict accordance with the approved details and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturer's specifications. **Reason:** To ensure the creation of well-designed and sustainable buildings and to satisfy the requirements of Policy FW3 of the Warwick District Local Plan 2011-2029.
- 12 Flood storage compensation shall be carried out, in accordance with the details submitted, including plan [LS] 1.7 'Proposed Floodplain Compensation', submitted to the Local Authority on 6th February 2024, unless otherwise agreed in writing by the Local Planning Authority, in consultation with the Environment Agency. **Reason:** To minimise flood risk and enhance the flood regime of the local area.
- 13 Finished floor levels shall be set no lower than 51.905m AOD (600mm plus 1% plus climate change flood level) unless otherwise agreed in writing by the Local Planning Authority. **Reason:** To protect the proposed dwelling from flood risk for the lifetime of the development.
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**Planning Committee:** 12 March 2024

**Item Number: 7**

**Application No:** [W 23 / 1121](#)

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

**Registration Date:** 23/10/23  
**Expiry Date:** 18/12/23

**South Lodge (West Lodge), Jephson Gardens, Leamington Spa, CV32 4AB**

Change of use from tourist information office to Safe Space and support centre  
(Part Retrospective) FOR Warwick District Council

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This application has been triggered to be considered by Members at Planning Committee because the application has been submitted by Warwick District Council and is not for a routine minor development.

**RECOMMENDATION**

Planning Committee are recommended to Grant planning permission.

**DETAILS OF THE DEVELOPMENT**

Planning permission is sought for the material change of use of the tourist information office to a Safe Space and support centre. The proposal does not include any internal or external changes.

**THE SITE AND ITS LOCATION**

The application site lies to the south of the Parade within the Urban Area Boundary, Town Centre Boundary and Creative Quarter of Royal Leamington Spa.

The host building comprises of 1 of a pair of two Grade II Listed Buildings known as West Lodge which form the west Gate Houses to the Spa Gardens which form part of a Grade II Registered Park and Garden. Within the immediate vicinity lie a number of Grade II listed structures including Willes Obelisk, the Hitchman Fountain, the Pump Rooms and Victoria Bridge which are Grade II Listed. The site also falls within the Conservation Area.

The application site lies in Flood Zone 3 and the River Leam lies approximately 25m to the south of the site at its closest point.

**RECENT RELEVANT PLANNING HISTORY**

-W/13/0487/LB- Construction of two new internal stud walls (including new timber skirting boards and architraves) to form office and protected corridor adjacent to existing kitchen. Granted 07/06/2013.

-W/05/0291 Conversion to exhibition space, retail area and reception/office with new public access from the rear and landscaping. Granted 17/05/2005.

-W/05/0929/LB- Construction of two new internal stud walls (including new timber skirting boards and architraves) to form office and protected corridor adjacent to existing kitchen. Granted 15/05/2005.

## **RELEVANT POLICIES**

- National Planning Policy Framework

### Warwick District Local Plan 2011-2029

- TCP1 - Protecting and Enhancing the Town Centres
- CT1 - Directing New Meeting Places, Tourism, Leisure, Cultural and Sports Development
- HS8 - Protecting Community Facilities
- HS6 - Creating Healthy Communities
- HS1 - Healthy, Safe and Inclusive Communities
- BE1 - Layout and Design
- HE1 - Protection of Statutory Heritage Assets
- HE2 - Protection of Conservation Areas
- BE3 - Amenity
- TR1 - Access and Choice
- TR3 - Parking
- NE1 - Green Infrastructure
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- NE3 - Biodiversity
- SC0 - Sustainable Communities
- NE5 - Protection of Natural Resources
- CC1 - Planning for Climate Change Adaptation
- HS7 - Crime Prevention

### Royal Leamington Spa Neighbourhood Plan 2019-2029

- RLS16 - Royal Leamington Spa Town Centre
- RLS6 - Protection of Community Facilities
- RLS17 - Royal Leamington Spa Creative Quarter
- RLS3 - Conservation Area
- RLS8 - Protecting Local Green Space
- RLS15 - Canal and Riverside Development
- RLS13 - Traffic and Transport
- RLS15 - Canal and Riverside Development

## Guidance Documents

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

## **SUMMARY OF REPRESENTATIONS**

Royal Leamington Spa Town Council: No comments (01/12/2023)

Environment Agency- The proposal appears to be a lower risk planning consultation and therefore the standard advice is recommended (20/02/2024).

The Gardens Trust- No comments (17/11/2024).

Warwickshire Police- No objection in relation to Crime and Community Safety matters. It is recommended that a full CCTV system be installed within the building and around its exterior (13/11/2023).

WCC Highways Authority- No objection (13/11/2023).

WDC Environmental Health- No objection (09/11/2023).

WDC Conservation Officer-No objection (14/11/2023)

**Public Response**- No response received.

## **ASSESSMENT**

### Principle of development

Planning Permission is sought for the change of use of the existing building to a new Suis Generis use. No external changes are proposed as part of the development.

In 2005 Planning Permission was granted to use the building as an Exhibition Centre for art. This use was not subject to any limitations via planning condition in terms of hours of operation however there is no evidence that this use was implemented.

The existing lawful use is considered by officers to be a Tourist Information centre. The application form advises that the application site has been used as an office space for a ranger service and meeting point for a local groups, with the rooms hired out. This application is therefore part retrospective and has been considered on this basis. The description of development has been updated to reflect this.

With respect to the proposed use, the Applicant advises that Safe Spaces are operational across the UK's big towns and cities as part of the Night Time Economy safety initiatives. The supporting information advises that the use will enable the

space to be a communications hub for the night time economy that can provide help and support to those in the town who may find themselves in vulnerable situations.

The proposed Space use is part retrospective, and the supporting statement advises that this use is currently operating Friday 10pm-4am as part of a Pilot project. However, the long term intention of the Applicant is to open the Safe Space use Tuesday-Saturday 10pm-4am. The application has therefore been considered on this basis and the description of the development reflects the permanent change of use sought.

The supporting information advises that the Main Room will be occupied by the Safe Space supervisor and representatives from the police, marshals, pastors, other support services, personnel and first aider. At full capacity the proposed Safe Space use will be expected to have between 3-8 members of staff on site at any one time. In addition, it is expected that partnership meetings will take place within the building on an occasional basis.

Outside of the Safe Space Use the building is proposed to be used as one of the bases for the Community Team to operate from with the main room proposed to be used for meetings for community safety partners and other groups such as public bookings. The supporting information states that the main reception space can be utilised by local groups and it can be used as a training centre to for small events.

The Community Wardens Team currently use the main reception of the building and access the building between 8 am and 10pm and it is proposed that the office is secured for the Community Warden Supervisor and Community Safety Team.

The new use will be mixed use in nature. The use is considered to comprise of an office space, meeting place for the use of the local community and support centre.

### Town Centre

Policy TC1 seeks to protect and enhance Town Centres states that proposals for any of the main town centre uses will be permitted where they are appropriate in scale in relation to the role and function of the town and that non-shopping proposals will not compromise the shopping function. Policy CT1 states that new meeting places, tourism, leisure and cultural and supports development will be permitted within the town centre in accordance with the Policies.

Officers are satisfied that the proposal will be of an appropriate scale in relation to the role and function of the town and will not compromise the Town's shopping function. The proposal will introduce a use where the public can book the rooms for events/meetings and training. The proposal is therefore considered to accord with Policies TC1 and CT1 in this regard. The use is Suis Generis and officers therefore consider any future change will require planning permission.

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.

### Community Use

The Lodges at Jephson Gardens, which includes the application building, are identified as a Community Facility within the NDP. Policy RLS6 is therefore applicable to the principle of the development and seeks to protect any facilities identified in line with Policy HS8 of the Local Plan. The supporting text for Policy RLS6 states that community facilities such as halls, community centres, local shops and pubs are the essential glue and help bring community together.

Policy HS8 states that the redevelopment or change of use of community facilities that serve local needs will only be permitted where it can be demonstrated that there are similar facilities accessible to the local community by means other than the car, the facility is redundant and no other user is willing to manage or acquire it or there is an assessment demonstrating a lack of need for the facility within the local community.

Policy HS6 relates to Creating Healthy Communities and part c) state that proposals should consider community cohesion by the provision of accessible services and community facilities. Furthermore, Policy HS1 states that the potential for Healthy, Safe and Inclusive Communities will be taken into account when considering all development proposals and support will be given to proposals that do not result in the loss of essential community buildings and social infrastructure.

The proposal seeks planning permission to another use which is considered to serve the local community. Officers are therefore satisfied that the proposal will not result in the loss of the existing community facility but will provide an alternative use and will accord with the spirit of Policy HS8 and NDP Policy RLS6 in this regard.

### Creative Quarter

The site lies within the Royal Leamington Spa Creative Quarter. As such, in line with NDP Policy RLS17 proposals will be supported when they address, as appropriate, various improvements. Due to the scale and nature of the development it is not considered appropriate for the proposal to deliver any of these requirements.

NDP Policy RLS17 further continues to advise that community/event spaces will be supported where they meet the requirements of the Local Plan.

### Conclusion of Principle

Having regard to the above and subject to a condition officers consider that the principle of the development is supported by Policies TC1, CT1, the spirit of Policy HS8 and NDP Policy RLS6 and NDP Policy RLS17.

Other material considerations are addressed below.

### Character, Design, Distinctiveness and Landscape

The application site lies to the west of Jephson Gardens and comprises of an existing gate house which is finished in an Italianate Style constructed in brick with painted stucco facades under a Welsh Slate roof with pitched roofs and chimneys.

The application building is visible from the southern end of the Parade and Jephson Gardens. Jephson Gardens are identified as a protected local green space by NDP Policy RLS8.

The development relates to the change of use of the existing building and no external changes are proposed to facilitate the use. No external lighting is proposed as part of this development and the proposal has been considered on this basis.

In light of this the development is considered to have a neutral impact on the existing character and streetscene having regard to Policy BE1 and NDP Policies RLS3 and RLS8.

### Heritage Matters

The host building forms a pair of two buildings known as West Lodge which are gate lodges dating from approximately 1846, finished in an Italianate style. The buildings form part of an almost symmetrical pair and are Grade II Listed. The lodges are set at the western entrance of Jephson Gardens which forms part of a Grade II Spa Gardens Registered Park and Gardens.

The Spa Gardens comprise of a series of gardens and parks running from east to west alongside the River Leam through the centre of Leamington Spa and continue to open land to the east and west.

The application building is at the gate of Jephson Gardens and lies close to a number of listed structures within the Spa Gardens including Willes Obelisk, the Hitchman Fountain and Pump rooms which are Grade II listed. To the south of the site includes Victoria Bridge which is Grade II Listed.

The site also lies within the Leamington Spa Conservation Area and falls within Area 13a which is the interface between the Old Town and New Town. The area is considered to include important open space and views including the views looking north from the Victoria Bridge.

The proposal does not seek to make any external changes to the building but will be looking to introduce a use which operates through the night.



In response to the development the Conservation Officer has raised no objection to the development. In addition, the Gardens Trust has made no comments to the application.

In light of the above the proposal is considered to preserve the character of the conservation area and not result in harm to the setting or special interest of the designated heritage assets identified. 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 duty set out in the Planning (Listed Buildings and Conservation Areas) Act 1990 which states that special regard will be given to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

#### Residential Amenity

The application site lies within the Town Centre and by reason of its siting to the west of Jephson Gardens does not lie close to any neighbouring dwellings.

No external changes are proposed to the building, and as such the proposal is not considered to give rise to any impacts on the amenity of neighbouring properties through adverse overlooking, overshadowing or overbearing impacts over and above the existing arrangement.

The proposed use will operate through the night and this is proposed to be from Monday to Saturday. In response to the development Environmental Health has raised no objection. Furthermore, officers consider the waste arrangements likely to be similar for the proposed use to the existing operations.

With respect to Air Quality the development does not lie within the Air Quality Management Area for Leamington Spa and by reason of the type of development is not considered to result in a negative impact in terms of air quality.

Having regard to the above officers do not consider that the development will result in an unacceptable adverse impact on the amenity of neighbouring dwelling's amenity through adverse overlooking, overshadowing or overbearing or adverse surroundings in line with Policy BE3 and paragraph 135 of the NPPF in this regard.

#### Highways Matters (including access and parking)

The application site lies within the Town Centre within close proximity to existing public transport modes. The application building is not currently served by any existing parking.

As the proposed use is Sui Generis there is no parking requirement outlined within the Council's Parking Standards SPD. No changes are proposed to pedestrian or vehicular access and no parking spaces are proposed to be associated with the development. In response to the development no objection has been received from WCC Highways Authority who have referred to the parking control within the vicinity, close bus route and car park on Newbold Terrace. Therefore it is not considered that the proposed change of use will have a material impact on parking.

Having regard to the above, the development is not considered to give rise to an adverse impact on highway safety or parking due to the location of the building and existing use in line with Policies TR1 and TR3 of the Local Plan, NDP Policies RLS13 and RLS15 and paragraph of the NPPF.

### Flood Risk and Water Environment

The application site lies in Flood Zone 3 which has the highest probability of flooding and the River Leam lies approximately 25m to the south of the site at its closest point.

The application has been submitted with a Flood Risk Assessment (FRA) which identifies the flood level as 49.8m AOB across the whole site which is the same as the existing floor levels. The FRA references the flood defences in the area which are protecting this area to a 1 in 20 year standard. The proposal does not seek to change the floor levels as part of the development.

The FRA advises that means of escape are available via two exit routes. During the course of the application the Applicant advised that all uses associated with the building will cease during a flood event which impacts or was predicted to impact the building. The application form advises that the existing foul drainage will stay connected to the mains sewer.

In response to the application and, based on the cease of any uses during a flooding event outlined by the Applicant, the Environment Agency consider that the vulnerability classification of the proposed development will not change. As such, the Environment Agency consider that the proposal appears to be a lower risk planning consultation and they have recommended that the flood risk standing advice should be applied. The Environment Agency has also recommended that the applicant should contact the Flood line to register for flood warnings and officers consider it reasonable to add a note to this effect.

The site lies in flood zone 3 however as the proposal is for a change of use to a Less Vulnerable category having regard to Annex 3 of the NPPF, in line with the Applicant advising the use will cease during a flooding event, the sequential test is not applicable. Furthermore, the exception test is not applicable having regard to paragraph 174 of the NPPF and guidance within the NPPG.

The proposal does not seek to introduce additional flood resilience having regard to Policy FW1 however officers give weight to the existing use. As such, having

regard to the above the development is not considered to give rise to an increase in flooding elsewhere or introduce harm to flooding based on the proposal and site specifics having regard to Policies BE1, SC0 and FW1 and NDP Policy RLS15 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 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. No change is proposed to the building and therefore neutral impact in this regard.

#### Other matters

##### Community safety

In line with Policies HS1 and SC0 consideration will be given to the how proposals seeks to minimise the potential for crime and anti-social behaviour to improve community safety. Furthermore, Policy HS7 seeks to encourage development to minimise the potential for crime and anti-social behaviour through considering options such as natural surveillance and including appropriate security measures.

In response to the application Warwickshire Police has raised no objection to the development and consider the change of use a positive move. Warwickshire Police has recommended that a full CCTV system be installed around the building. Officers consider it reasonable to add a note to this effect and advise the applicant that this will require other consents.

### **CONCLUSION AND PLANNING BALANCE**

Planning permission is sought for the change of use of the existing building to a new Sui Generis use within the Urban Area Boundary, Town Centre and Creative Quarter of Royal Leamington Spa. Based on the information provided and subject to a condition the principle of the development is considered to be supported by Policies TC1 and CT1 and NDP Policy RLS17. Furthermore, the proposal is considered to be in line with the spirit of Policy HS8 and NDP Policy RLS6.

Furthermore, officers are satisfied that the development will not give rise to any adverse with respect to impacts on the character of the area, heritage, residential amenity, highways and parking, flood risk matters, biodiversity and ecology, climate mitigation and adaption or community safety.

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

**Conditions**

- 1 The building hereby permitted shall be used as a Safe Space and Support centre, office use and community use as outlined in the Supporting Information and E-mail from the Applicant received on 15<sup>th</sup> December 2023 only.

Reason: In order that the local planning authority have the opportunity of reviewing the impact of any variation to the use on the amenities of occupants of other properties in the vicinity, highways and parking and flood risk having regard to Policies BE3, FW1, TR1 and TR3 of the Warwick District Local Plan 2011-2029.



**Planning Committee:** [12 March 2024](#)

**Item Number:** 8

**Application No:** W 23 / 1352

**Town/Parish Council:** Leamington Spa  
**Case Officer:** Lucy Shorthouse

**Registration Date:** 13/09/23

**Expiry Date:** 08/11/23

01926 456528 [lucy.shorthouse@warwickdc.gov.uk](mailto:lucy.shorthouse@warwickdc.gov.uk)

**10 Park Road, Leamington Spa, CV32 6LG**

Proposed porch extension, single storey extension to office (rear elevation), first floor side extension over existing garage, Loft conversion. FOR Mr & Mrs Driffill

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This application is being presented to Committee due to the number of support comments received, contrary to officers' recommendation.

**RECOMMENDATION**

Planning Committee are recommended to REFUSE planning permission.

**DETAILS OF THE DEVELOPMENT**

Planning permission is sought for the erection of a first floor side extension, a single storey rear extension, the erection of three rear dormers, and the increase of the ridge height of the main roof.

**THE SITE AND ITS LOCATION**

The application relates to a detached house in Leamington Spa.

**PLANNING HISTORY**

None relevant.

**RELEVANT POLICIES**

- National Planning Policy Framework
- [Warwick District Local Plan 2011-2029](#)
- BE1 - Layout and Design
- BE3 - Amenity
- TR3 - Parking
- [Royal Leamington Spa Neighbourhood Plan 2019-2029](#)
- RLS4 - Housing Character Outside the Conservation Areas
- [Guidance Documents](#)
- Residential Design Guide (Supplementary Planning Document- May 2018)
- Parking Standards (Supplementary Planning Document- June 2018)

**SUMMARY OF REPRESENTATIONS**

**Royal Leamington Spa Town Council** - No comments to make.

**WCC Ecology** - Object pending preliminary bat roost assessment

**Public Response** - 7 comments in support, raising the following points:

- tasteful, well-designed extensions;
- there has been a lot of work to houses in the street; and
- consistent with the local character.

## **ASSESSMENT**

### Design

Local Plan Policy BE1 requires all development to relate harmoniously to the architectural form of the surrounding built environment, in terms of scale and massing, and also through good design. The adopted Residential Design Guide SPD also sets out design principles to which development proposals will be expected to comply. In addition, Royal Leamington Spa Neighbourhood Plan Policy RLS4 requires proposals to demonstrate that they have responded to the predominant character of the local area.

Number 10 lies on the northern side of Park Road, which is characterised by detached two storey houses set back from the edge of the road. The houses are similar in design but not uniform, and it is clear that side extensions similar to the proposed first floor extension included in this application have been added to a number of the houses on this stretch of the street. While the Residential Design Guide requires a set down and set back to side extensions, in this context it is not considered that the proposal would result in harm to the street scene or result in an unacceptable lack of subservience to the original dwelling. Additionally, street scene imagery provided by the applicant demonstrates that while the houses are similar, they do vary in height, both taller and shorter than the existing house at number 10, and in this context the additional height added to the ridge of Number 10 would not result in the house dominating or otherwise looking incongruous within the street scene. The proposed first floor side extension is therefore considered acceptable.

The proposals also include a single storey rear extension. This is small in scale, of good design, with materials matching the existing. Changes to the porch are proposed, which includes a new mono pitched roof. This is also considered good design and an acceptable scale, in keeping with other properties in the street and somewhat improving the front elevation by removing flat roof elements. Render is also proposed to part of the front façade, replacing the stone cladding to the ground floor. The addition of render is considered an acceptable modern addition, again similar to existing neighbouring properties. These additions are therefore acceptable and are not considered to be harmful to the appearance of the dwelling.

Also proposed as part of this application is the conversion of the loft space to habitable rooms, and the erection of three large dormers. The dormers are considered excessive in size, occupying a large proportion of the roof, wide and

bulky in appearance and are not considered good design. While neighbouring number 8 features a similar arrangement of three dormers on the rear pitch of the roof, these are narrower than those proposed on the application site, set further back in the roof slope, and have a steeper roof pitch, resulting in a less boxy appearance, and less of an impression of mass to the rear of the building. The scale and proportion of the dormers proposed, combined with their height within the roof and the flatter shape is considered to result in harm to the character and appearance of the area through the introduction of an incongruous feature and disproportionately increasing the bulk and mass of the house. The Residential Design Guide requires dormers to be modest, and located sensitively within the roof slope, and it is not considered that the proposed dormers would accord with this due to their scale and location. Whilst visibility of the proposal would be limited from the road, the discordant form would be visible to occupiers of neighbouring dwellings from their rear windows and gardens, nonetheless.

Several neighbouring properties have been altered and extended. Drawings provided with the application seek to argue the proposal is acceptable in the context of neighbouring approved development. It can be noted that the dormers at no. 8, though considered more acceptable in design for aforementioned reasons, were approved in 2008 prior to the adoption of the RDG. It is acknowledged the properties vary in design to the rear. Nos. 12, 14 and 18 have had extensions approved within the last 6 years, which have included additions to the roof, however each has been assessed on its own merits, and considered good design therefore acceptable, contrary to the assessment of this application.

It is therefore considered that the proposed rear dormers would fail to harmonise with the character and appearance of the area, contrary to the Residential Design Guide, Local Plan Policy BE1 and Neighbourhood Plan Policy RLS4.

### Amenity

Local Plan Policy BE3 requires all development to have an acceptable impact on the amenity of all neighbouring residents and future occupiers of the development, in terms of light, outlook and privacy. The Council's Residential Design Guide SPD provides a design framework for Policy BE3 and states that extensions should not breach a 45 degree line taken from the nearest habitable room of a neighbouring property. This aims to prevent material harm on neighbouring dwelling, by reason of loss of light or outlook.

It is considered that the proposal would not result in unacceptable harm to the amenity of the neighbouring residents by reason of loss of light or outlook. The proposed development would not result in a breach of the 45 degree line to either of the neighbours and is not considered to have an unacceptable impact on the amenity of neighbouring occupiers.

The proposal is considered acceptable under Local Plan Policy BE3.

### Parking

Policy TR3 of the Warwick District Local Plan states development will only be permitted that does not result on on-street parking that is detrimental to highway

safety and the Parking Standards SPD requires that garages are not considered as part of the parking provision of a development.

The proposed development would result in the loss of some usable off-street parking space. However, sufficient off-street parking would remain, in line with the Parking Standards SPD. The proposal is therefore acceptable under TR3.

### Ecology

The County Ecologist has recommended an updated Preliminary Bat Survey be undertaken, following a bat survey submitted with a previous application. However, Officers are mindful that this survey showed no signs of bat habitation, the roof space could be converted without the need for planning permission, and the property is well sealed and situated in a built-up area. Moreover, bats and their 'roost' sites are fully protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. It is a criminal offence to recklessly disturb or destroy a bat 'roost'. Where a bat 'roost' is present a licence may be necessary to carry out any works. If evidence of bats is found whilst carrying out works, there is a legal requirement to stop work and notify Natural England. A note advising the applicant of this will be added to any approval granted.

### Summary

It is considered that the proposed development would not harmonise with or enhance the character and appearance of the area, or retain subservience to the existing dwelling, and as such is contrary to Local Plan Policy BE1, the Warwick District Residential Design Guide and Neighbourhood Plan Policy RLS4. It is recommended the application is refused.

## **REFUSAL REASONS**

- 1 Policy BE1 of the Warwick District Local Plan 2011-2029 states that development will only be permitted which positively contributes to the character and quality of the environment through good layout and design. Furthermore the Residential Design Guide SPD provides a detailed framework which should be followed in order to achieve good design. In addition, Neighbourhood Plan Policy RLS4 should respond to the character of the street in which they will be located.

The 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.

In the opinion of the Local Planning Authority the proposed rear dormers would be overly large and bulky, significantly increasing the impression of built development and the bulk and mass of the building, making the house seem much larger and more massive than its neighbours from the rear.



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

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**Planning Committee:** 12 March 2024

**Item Number:** 9

**Application No:** [W 23 / 1695](#)

**Town/Parish Council:** Leamington Spa  
**Case Officer:** Millie Flynn

01926 456140 millie.flynn@warwickdc.gov.uk

**Registration Date:** 20/12/23

**Expiry Date:** 14/02/24

**140-142 Parade, Leamington Spa, CV32 4AG**

Painting of shopfront (Retrospective Application) FOR C/O Agent

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This application is being presented to Planning Committee due to an objection from the Town Council having been 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 application seeks retrospective planning permission for the painting of the shopfront.

**THE SITE AND ITS LOCATION**

The application relates to a 3-storey building situated on the west side of Parade. The site is situated within a predominantly commercial part of Royal Leamington Town Centre and the Royal Leamington Spa Conservation Area. The application relates to the ground floor of the premises, which is in use as a restaurant.

There is an Article 4 Direction placed on properties on Parade to retain control of materials, textures and colours of facades, shopfronts and windows.

**PLANNING HISTORY**

There have been a number of previous applications for planning permission and advertisement consent relating to shopfront alterations and signage, however, Officers do not consider them relevant to the proposal.

*Listed Building Consent approved for painting shopfront at No. 116 Parade, in a similar colour to the proposal:*

- W/20/1342/LB - Like for like repairs and re-decoration to existing shopfront including painting and signage - *Granted*.

**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
- Design Advice on Shopfronts & Advertisements in Royal Leamington Spa (Supplementary Planning Guidance).
- Royal Leamington Spa Neighbourhood Plan 2019-2029
- RLS3 - Conservation Area
- RLS16 - Royal Leamington Spa Town Centre

## **SUMMARY OF REPRESENTATIONS**

**Royal Leamington Spa Town Council:** Object to the proposal.

**WDC Conservation:** Object to the proposal.

## **ASSESSMENT**

### Impact on Visual Amenity and the Conservation Area

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. 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 BE1 of the Warwick District Local Plan 2011 - 2029 states that development will only be permitted which positively contributes to the character and quality of the environment through good layout and design.

Policy HE1 of the Local Plan states that development will not be permitted if it would lead to harm to the significance of a designated heritage asset. Where the 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. The explanatory text for Policy HE1 clarifies that in considering applications relating to Conservation Areas, the Council will require that proposals do not have a detrimental effect upon the integrity and character of the building or its setting, or the Conservation Area. Local Plan Policy HE2 supports this and states that it is important that development both within and outside a Conservation Area, including to unlisted buildings, should not adversely affect its setting by impacting on important views and groups of buildings within and beyond the boundary.

The Royal Leamington Spa Neighbourhood Plan Policies RLS3 relates to development in the Conservation Area and the Town Centre. Policy RLS3 only permits proposals which respect the significance of listed buildings and non-designated heritage assets.

The application seeks retrospective permission for the painting of the shopfront in a deep shade of red (RAL 3001).

The Conservation Officer has been consulted and has objected to the proposal. They have stated, that whilst it is recognised that a similar colour is in place at No.116 Parade, the application property (Nos.140-142) is a taller building, which occupies a larger proportion of the facade, making it more prominent on Parade. They consider that this section of Parade contains more muted colours in comparison to the proposed red frontage. They further note that the application property is considered to be located within a different context to No.116. Therefore, they consider the proposal to result in harm to the character and appearance of the Conservation Area and streetscene, which is not outweighed by any public benefits.

Whilst the proposal is a clear departure to the magnolia, which is set out in the Article 4 Direction - Leamington Spa Facade Painting Control, I have set out the below the material considerations as to why Officers consider the proposal is acceptable in this instance.

Officers note that Listed Building Consent was granted at No.116 in 2020 under application ref: W/20/1342/LB for the re-painting of the shop frontage in red. (RAL 3003). It was noted at the time of the approval that Officers did not consider the re-painting of the shopfront to a deeper shade of red to be harmful to the Conservation Area and the wider streetscene. It should also be noted that no concerns were raised by the Conservation Officer to the painting of the shopfront in red. Therefore, Officers do not consider the current proposal to be materially dissimilar to No.116 Parade to the extent that permission should be refused.

Officers further note that in a recent appeal ref: APP/T3725/Z/23/3327564 at the site (No. 140-142), the Inspector noted '*Whilst the appeal building is of individual design and appearance, it does nonetheless form part of a terrace of buildings*'. Therefore, whilst Officers take note of the Conservation Officer's comments, in line with the most recent appeal, Officers do not consider the application property to be viewed differently, in terms of height, positioning and prominence, within the wider streetscene. Therefore, Officers do not consider the application property to be any more prominent on Parade, than No.116, which has approval for the similar shade of red paint.

Thus, it is considered that the proposal will not result in harm to the heritage asset and complies with Local Plan Policies HE1 and BE1.

## **CONCLUSION**

In the opinion of the Local Planning Authority, the proposal preserves the character and appearance of the Conservation Area and is not considered to cause harm to its wider setting. The proposal is therefore recommended for approval.

## **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) 'Technical Signs - B' submitted on 24th November 2023 and

'596856-2 - B' submitted on 25th January 2024 and specification contained therein. **Reason:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1 and HE1 of the Warwick District Local Plan 2011-2029.

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**Planning Committee:** 12 March 2024

**Item Number:** 10

**Application No:** [W 23 / 1743](#)

**Town/Parish Council:** Leamington Spa  
**Case Officer:** Millie Flynn

**Registration Date:** 02/01/24  
**Expiry Date:** 27/02/24

01926 456140 millie.flynn@warwickdc.gov.uk

**6b Southborough Terrace, Brunswick Street, Leamington Spa, CV31 2DT**

Change of use from 3 bed flat (Use Class C3) to 3 bed House in Multiple Occupation (Use Class C4) (Retrospective Application) FOR Mr M Chima

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

**RECOMMENDATION**

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

**DETAILS OF THE DEVELOPMENT**

The application seeks retrospective planning permission for a change of use from a 3-bed flat (Use Class C3) to a 3 bed House in Multiple Occupation (Use Class C4).

**THE SITE AND ITS LOCATION**

The application property is a flat situated in the middle of Southborough Terrace which forms part of a wider residential unit above a row of shops fronting onto Brunswick Street, Leamington Spa. There is a service area to the rear of the shops and flats. Southborough Terrace/ Brunswick Street is considered to constitute a main thoroughfare in a mixed-use area.

**PLANNING HISTORY**

No relevant planning history.

**RELEVANT POLICIES**

- National Planning Policy Framework
- [Warwick District Local Plan 2011-2029](#)
- BE1 - Layout and Design
- BE3 - Amenity
- H6 - Houses in Multiple Occupation and Student Accommodation
- TR3 - Parking
- [Guidance Documents](#)
- Parking Standards (Supplementary Planning Document- June 2018)
- Residential Design Guide (Supplementary Planning Document- May 2018)
- [Royal Leamington Spa Neighbourhood Plan 2019-2029](#)

- RLS1 - Housing Development Within the Royal Leamington Spa Urban Area
- RLS4 - Housing Character Outside the Conservation Areas

## **SUMMARY OF REPRESENTATIONS**

**Royal Leamington Spa Town Council:** Objects to the proposal as the HMO concentration is over 10%.

**WDC Waste Management:** Objects on the basis that a waste storage area has not been provided.

**Private Sector Housing:** Raise concerns regarding licensing matters.

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

- Over-concentration of HMOs
- Increase in parking related issues.
- Increase issues surrounding waste and waste management.
- Lack of information regarding room sizes
- No private outdoor amenity space has been provided.

## **ASSESSMENT**

The main issues relevant to the consideration of this application are:

- Whether the proposal would cause or add to a harmful over-concentration of HMOs in this area.
- The impact on the living conditions of neighbouring dwellings.
- Car parking and highway safety.

### Principle of Development

It needs to be considered whether the proposal would cause or add to a harmful over-concentration of HMOs in this area.

Policy H6 of the Local Plan states that planning permission will only be granted for Houses in Multiple Occupation (HMOs) where: -

- a). The proportion of dwelling units in multiple occupation (including the proposal) within a 100-metre radius of the application site does not exceed 10% of total dwelling units.
- b). The application site is within 400 metres walking distance of a bus stop.
- c). The proposal does not result in a non-HMO dwelling being sandwiched between 2 HMOs.
- d). The proposal does not lead to a continuous frontage of 3 or more HMOs; and
- e). Adequate provision is made for the storage of refuse containers whereby - the containers are not visible from an area accessible by the general public, and the containers can be moved to the collection point along an external route only.

## H6 Assessment:

a). The existing property is a 3 bedroomed flat. Within a 100-metre radius there are 57 existing HMOs out of 236 residential units. The existing concentration level is at 24.15%. The addition of one further HMO would increase the concentration of HMOs to 24.50%.

Local Plan Policy H6 goes on to state that exceptions to a) may be made where the application site is located on a main thoroughfare in a mixed-use area where the proposal would not lead to an increase in activity along nearby residential streets (for example, by way of pedestrian movements between the application site and the town centre or car parking).

Officers consider that the site is on a main thoroughfare. Brunswick Street which leads into Clemens Street, is the main road from the south of Leamington into the town centre, via a commercial part of the town. The area is in mixed use area, comprising of residential properties, retail units and restaurants within the immediate area. The site is therefore considered to meet exception "a" as it is unlikely that the proposal would lead to increased activity along nearby residential streets.

- b). The nearest bus stop is located on Brunswick Street which is within 400 metres walking distance of the property.
- c). The proposal does not sandwich a non-HMO between 2 HMOs.
- d). It does not lead to a continuous frontage of 3 or more HMOs.
- e). The Council's Waste Management department have objected to the proposal stating that the current collection service for this property is a fortnightly refuse sack collection, fortnightly recycling collection and a weekly food collection. Officers do not consider there would be any change in such provisions if the change of use of the flat to a HMO were to be approved. However, after carrying out a site visit, Officers have noted that waste containers are stored out of sight in the service area to the rear of the flats, in compliance with Local Plan Policy H6.

In consideration of the objection from Waste Management, the proposal would retain the existing waste and recycling storage arrangements to the rear of the building. It should also be noted that in a recent appeal decision at Third Floor Flat, 28 Clarendon Square Appeal Ref: APP/T3725/W/23/3320938, the Inspector noted that *'there is no evidence to suggest that a 4-bed HMO would produce more waste or additional waste-related concerns than that of the previous 3-bed apartment'*. In the case for this application, the change of use is for a 3-bed dwelling(C3) to a 3 bed HMO (C4). Therefore, there is no increase in the number of persons and Officers consider the refuse facilities are adequate, and to refuse permission would be unreasonable as there is no demonstrable harm.

Officers also note that the change of use is retrospective, and the site visit has confirmed that there are no issues surrounding waste and its management as the application site is clean and tidy.



Town Council and public objections have been received on the basis of increase in concentration of HMOs within 100m radius of the site, which is already more than 10%. Whilst these concerns are noted, Officers consider the proposal to comply with the requirements and exceptions set out in Local Plan Policy H6.

### Impact on the Street Scene

Policy BE1 states that new development will be permitted where it positively contributes to the character and quality of its environment through good layout and design. Development proposals should demonstrate that they harmonise with, or enhance, the existing settlement in terms of physical form so that the established character of the streetscene is respected. Policy BE1 states that in order to do this the development should adopt appropriate materials and details and respect the surrounding buildings in terms of scale, height, form and massing.

Policy RLS4 of the Royal Leamington Spa Neighbourhood Plan requires development proposals to respond to the predominant character in the street/road/locality.

The development does not include any external alterations and therefore does not have any impact on the character of the street scene.

The proposal is therefore considered to be in accordance with Local Plan Policy BE1 and Neighbourhood Plan Policy RLS4.

### Impact on neighbouring properties

Local Plan Policy BE3 requires all development to have an acceptable impact on the amenity of nearby users or residents and to provide acceptable standards of amenity for future users or occupiers of the development.

The proposed change of use includes no external alterations. The proposal is therefore unlikely to have a material impact on neighbouring residential amenity.

The proposed HMO would provide adequate living conditions for the future occupiers. It is noted that there is no private amenity area provided for the future occupiers. However, this is the same arrangement for the current occupiers of the flat. It should also be noted that the application is within a town centre location and there is access to local parks.

The proposal is therefore considered to be in accordance with Local Plan Policy BE3.

### Parking & 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.

Objections have been received with concerns regarding the impact the proposal will have on parking.

In accordance with the Council's Parking Standards SPD, the existing parking requirement for a 3-bedroom dwelling is 2 spaces and the requirement for the proposed 3 bed HMO is 2 spaces. The proposed change of use would therefore not result in an increase in the requirement for parking compared to the existing lawful use as a 3-bedroom dwelling.

Therefore, the proposal complies with Local Plan Policy TR3 of the Local Plan and the associated SPD.

#### Other Matters

An objection has been received regarding the lack of information about room sizes. Private Sector Housing have raised concerns regarding room sizes, means of escape and waste. However, Officers note that such matters are covered under licensing and are not relevant to the consideration of this planning application.

A site visit also confirmed that there is an area to the rear in which bins can be adequately stored.

### **CONCLUSION**

The change of use is considered to be acceptable in principle and would not have a harmful impact on neighbouring residential amenity, or the character of the area. There would be no increased demand on parking as a result of the change of use. The change of use is therefore recommended for approval.

### **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) 2314/1/A, and specification contained therein, submitted on 28th December 2023. **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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