

Planning Committee: 18 June 2024

Item Number: 5

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

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

Registration Date: 05/06/23

Expiry Date: 31/07/23

Pump Room Gardens, Dormer Place, Leamington Spa

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

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

RECOMMENDATION

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

DETAILS OF THE DEVELOPMENT

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

THE SITE AND ITS LOCATION

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

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

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

RECENT RELEVANT PLANNING HISTORY

No recent relevant planning history.

RELEVANT POLICIES

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

SUMMARY OF REPRESENTATIONS

Royal Leamington Spa Town Council:

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

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

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

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

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

Conservation Advisory Forum (CAF)

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

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

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

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

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

Public Response (summarised by the case officer)

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

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

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

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

Other non-planning matters were also raised.

ASSESSMENT

Background

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

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

Principle of development

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

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

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

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

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

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

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

Open space

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

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

Town Centre

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

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

Creative Quarter

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

Conclusion of Principle

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

Other material considerations are addressed below.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Flood Risk and Water Environment

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

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

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

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

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

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

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

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

Residential Amenity

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

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

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

Climate change and mitigation

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

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

Other matters

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

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

CONCLUSION AND PLANNING BALANCE

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

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

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

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

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

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

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

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

CONDITIONS

- 1 The development hereby permitted shall begin not later than three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan (dated 02 January 2024) and approved drawing(s) :

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

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

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

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

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

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