

Planning Committee Tuesday 8 November 2022

A meeting of the above Committee will be held in the Town Hall, Royal Leamington Spa on Tuesday 8 November 2022, at 6.00pm and available for the public to watch via the Warwick District Council [YouTube channel](#).

Councillor A Boad (Chairman)
Councillor T Morris (Vice Chairman)

Councillor R Dickson
Councillor B Gifford
Councillor O Jacques
Councillor J Kennedy
Councillor R Margrave

Councillor N Murphy
Councillor M Noone
Councillor D Norris
Councillor C Quinney
Councillor N Tangri

Emergency Procedure

At the commencement of the meeting, the emergency procedure for the Town 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 11 October 2022.
(Pages 1 to 18)

Part B – Planning Applications

To consider the following reports from the Head of Development Services:

5. **W/22/0450 – Former Mothercare Unit, Leamington Shopping Park, Tachbrook Park Drive, Warwick** **(Pages 1 to 10)**
Major Application
6. **W/22/0484 – Land off Europa Way, Tachbrook Country Park, Royal Leamington Spa** **(Pages 1 to 35)**
Major Application
7. **W/22/0703 – Former Mothercare, Leamington Shopping Park, Tachbrook Park Drive, Warwick** **(Pages 1 to 11)**
Major Application
8. **W/22/0892 – 28 Clarendon Square, Royal Leamington Spa** **(Pages 1 to 11)**
9. **W/22/0928 – Third Floor Flat, 28 Clarendon Square, Royal Leamington Spa** **(Pages 1 to 5)**
10. **W/22/1106 – 32 Russell Terrace, Royal Leamington Spa** **(Pages 1 to 10)**
11. **W/22/1276 - 25 Beverley Road, Royal Leamington Spa** **(Pages 1 to 5)**
12. **W/22/1345 – Althorpe Enterprise Hub, Althorpe Street, Royal Leamington Spa** **(Pages 1 to 5)**
13. **W/22/1425 – Forge Farm, Pinley Lane, Pinley** **(Pages 1 to 9)**
****WITHDRAWN FROM AGENDA****

Please note:

- (a) the background papers relating to reports on planning applications are open to public inspection under Section 100D of the Local Government Act 1972 and consist of all written responses to consultations made by the Local Planning Authority in connection with the planning applications referred to in the reports, the County Structure Plan Local Plans and Warwick District Council approved policy documents.
- (b) all items have a designated Case Officer and any queries concerning those items should be directed to that Officer.
- (c) in accordance with the Council's Public Speaking Procedure, members of the public can address the Planning Committee meeting remotely by joining the remote meeting through their personal device on any of the planning applications or Tree Preservation Order reports being put before the Committee. If you wish to do so, please register online at [Speaking at Planning Committee](#) any time after the publication of this agenda, but **before 10.00am** on the working day before the day of the meeting and you will be advised of the procedure.

- (d) please note that the running order for the meeting may be different to that published above, in order to accommodate items where members of the public have registered to address the Committee.
- (e) occasionally, items are withdrawn from the agenda after it has been published. In this instance, it is not always possible to notify all parties interested in the application. However, if this does occur, a note will be placed on the agenda via the Council's website, and where possible, the applicant and all registered speakers (where applicable) will be notified.

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

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Planning Committee

Minutes of the meeting held on Tuesday 11 October 2022 at the Town Hall, Royal Leamington Spa at 6.00pm.

Present: Councillor Boad (Chairman); Councillors R. Dickson, B Gifford, Jacques, Kennedy, Margrave, Morris, Murphy, Norris, and Quinney.

Also Present: Principal Committee Services Officer – Lesley Dury; Legal Advisor – Sue Mullins; Principal Planning Officer – Lucy Hammond; Business Manager – Sandip Sahota; and HS2 Project Officer – Erin Weatherstone.

60. **Apologies and Substitutes**

Apologies for absence were received from Councillors Noone and Tangri.

61. **Declarations of Interest**

Minute Number 64 – W/22/0178 – Waitrose Foodstore, 51 Bertie Road, Kenilworth

Councillors R Dickson and Kennedy declared an interest because they occasionally used the store.

Councillor Gifford declared an interest as a Warwickshire County Councillor but stated that his interest was not prejudicial.

Minute Number 66 – W/22/0305 – 3 Gulistan Road, Royal Leamington Spa

Councillor Gifford declared an interest because he would be addressing the Committee on this application. He would leave the Chamber once he had finished addressing the Committee and would return once the decision had been reached.

Minute Number 67 – W/19/1030 – Oakley Grove Phase 3, Land off Harbury Lane and Oakley Wood Road, Royal Leamington Spa

Councillor Norris declared an interest because the application site was in his Ward.

62. **Site Visits**

There were no site visits made.

63. **Minutes**

- (a) The minutes of the meeting held on 19 July 2022 had previously been approved at the meeting held on 17 August 2022, however upon further examination, it was discovered that minute number 38 was not an accurate reflection of what had occurred at the meeting and made no mention of the changes required to the minutes of the meeting 4 May 2022 when these had been approved.

PLANNING COMMITTEE MINUTES (Continued)

The Committee therefore approved an amendment to the approved minutes of 19 July 2022. Minute 38 was amended to state:

"The minutes of the meeting held on 4 May 2022 were approved as a correct record, subject to the addendum circulated at the meeting, as per Appendix A to these minutes."

The addendum was also appended to the minutes as Appendix A.

- (b) The minutes of the meeting held on 17 August 2022 were taken as read and signed by the Chairman as a correct record subject to minute 57 being amended to show that the application was from Waitrose Ltd and not C/O FirstPlan Ltd. Minute 57 was further amended to show that Mr Winyard had addressed the Committee on behalf of Waitrose Ltd, in support of the application. (The minute incorrectly showed him speaking in objection to the application and did not record that he was speaking on behalf of Waitrose Ltd.)

64. W/22/0178 – Waitrose Foodstore, 51 Bertie Road, Kenilworth

The Committee considered an application from Waitrose Limited for a variation of Condition 15 for planning permission W/16/0851 (Variation of W/05/2054) to read "The use of the service area for the supermarket shall be limited to between 06.00 hours and 23.00 hours Monday to Sunday".

The application had been referred to the Planning Committee at its meeting 17 August 2022 but had been deferred because of concerns regarding the potential amenity implications of the expanded operation/delivery hours within the service area of the supermarket, with particular emphasis on HGV deliveries on Sundays.

Following subsequent discussion with officers, the scope of the variation had been reduced to explicitly omit any revision to the existing permitted HGV delivery hours.

The officer was of the opinion that the original planning permission was granted under application reference W/16/0851. The policies and material considerations that were relevant to that decision were set out in the associated officer report.

The variation of condition 15, comprising revised loading arrangements was viewed acceptable. There were no material changes in planning policy that would lead officers to a different conclusion to that which was reached previously through the assessment and determination of the previous application. Officers therefore considered that the development remained in accordance with the relevant provisions of the Development Plan and should be granted.

An addendum circulated at the meeting advised that the applicant was Waitrose Limited, and that the application was first considered at the meeting 17 August 2022.

It further advised that Condition 15 of planning permission ref: W/16/0851 was proposed to be varied to read *'The use of the service area for the*

PLANNING COMMITTEE MINUTES (Continued)

supermarket shall be limited to between 06.00 hours and 23.00 hours Monday to Sunday.'

The report incorrectly stated that planning permission ref: W/16/0851 expanded permitted HGV delivery hours to between 07:00 and 21:30 hours weekdays and Saturdays and 09:00 to 18:30 Sundays. These were in fact the hours permitted under planning permission ref: W/05/2054, and the report should have stated that planning permission ref: W/16/0851 permitted deliveries between 07:00 and 23:00 hours weekdays and Saturdays and 0800 to 2100 hours Sundays.

The report incorrectly stated that Condition 41 would limit HGV delivery hours to between 07:00 and 21:30 each weekday and Saturday and 09:00 to 18:30 on Sundays. Condition 41 would in fact limit HGV delivery hours to between 07:00 and 23:00 Monday to Saturday, and 08:00 to 21:00 on Sundays. This meant that HGV deliveries would not change from the currently permitted hours.

The agent had provided a further comment stating that in addition to the justifications for the proposed variation highlighted in the Committee report, the proposal was also being driven by home delivery demand forecasted beyond the pandemic and in turn Waitrose's commitment to enhancing the online services offered by the Kenilworth store.

Two additional public objections had been received.

The following people addressed the Committee:

- Councillor Hyde, representing Kenilworth Town Council in objection; and
- Ms Amos, representing the applicant, in support.

Members noted that Councillor Hyde had stated that Kenilworth Town Council had not been re-consulted subsequent to the revisions made, so was unable to state whether the Town Council would have withdrawn its objection. The Business Manager informed the Committee that officers could form a view without re-consultation if the objections had been overcome and Environmental Health had advised that amenity issues had now been addressed.

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

The Committee therefore

Resolved that W/22/0178 be **granted** subject to the following conditions:

- | No. | Condition |
|------------|--|
| (6) | the fume extraction system details approved under condition 6 of permission no W/05/2054 shall be retained at all times. |

PLANNING COMMITTEE MINUTES (Continued)

- | No. | Condition |
|------------|--|
| | Reason: To protect the amenities of surrounding properties, in accordance with Policy BE3 of the Warwick District Local Plan; |
| (7) | the noise attenuation measures carried out to external plant as approved under condition 7 of planning permission no. W/05/2054 shall be retained at all times. Reason: To protect the amenity of the area, and to satisfy the requirements of Policy BE3 of the Warwick District Local Plan; |
| (8) | the noise mitigation measures approved under condition 8 of planning permission no. W/05/2054 shall be retained at all times. Reason: To protect the amenity of the area, and to satisfy the requirements of Policy BE3 of the Warwick District Local Plan; |
| (9) | the gates to the lower car park shall be kept closed until half an hour before the store opens and shall be closed again one hour after the store has closed. Reason: To protect the amenity of the area, and to satisfy the requirements of Policy BE3 of the Warwick District Local Plan; |
| (11) | the foul and surface water drainage measures approved under condition 11 of planning permission no. W/05/2054 shall be retained at all times. Reason: To ensure that proper provision is made, in accordance with policy FW2 of the Warwick District Local Plan; |
| (14) | no lighting shall be fixed to the external walls or roof of the building hereby permitted, without the written consent of the District Planning Authority. Reason: To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy BE3 of the Warwick District Local Plan; |
| (15) | the use of the service area for the supermarket shall be limited to between 06.00 hours and 23.00 hours Monday to Sunday. Reason: To protect the amenity of the area, and to satisfy the requirements of Policy BE3 of the Warwick District Local Plan; |
| (16) | in order to ensure that noise levels from service vehicles does not cause disturbance, the following measures shall be implemented: |

PLANNING COMMITTEE MINUTES (Continued)

- | No. | Condition |
|------------|---|
| | (a) all vehicle reversing alarms shall be switched off when in service area, and |
| | (b) all refrigeration plant to lorry trailers shall be switched off when in service area. |

Reason: To protect the amenity of the area, and to satisfy the requirements of Policy BE3 of the Warwick District Local Plan;

- (17) screenwalls erected in accordance with detailed plans approved under planning application W/05/2054 shall be maintained in the positions shown unless otherwise agreed in writing by the District Planning Authority. **Reason:** To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy BE3 of the Warwick District Local Plan;
- (20) no more than one vehicular access shall be made to the site from Station Road, Warwick Road or Bertie Road. **Reason:** In the interests of highway safety, in accordance with the requirements of Policy BE3 of the Warwick District Local Plan;
- (23) the gradient of the vehicular accesses into the site shall not be steeper at any point than 1 in 20 for a distance of 30m into the site, as measured from the public highway carriageway. **Reason:** In the interests of highway safety, in accordance with the requirements of Policy TR1 of the Warwick District Local Plan;
- (25) obstructions, including gates and barriers, shall not be placed within the vehicular accesses to the site. **Reason:** In the interests of highway safety, in accordance with the requirements of Policy TR1 of the Warwick District Local Plan;
- (28) the site shall not be used for the purposes hereby permitted unless there is available vehicular turning spaces within the site so that all vehicles are able to enter and leave the public highway in a forward gear. **Reason:** In the interests of highway safety, in accordance with the requirements of Policy TR1 of the Warwick District Local Plan;

PLANNING COMMITTEE MINUTES (Continued)

- | No. | Condition |
|------------|---|
| (29) | all HGV's accessing or egressing the site, whether service or delivery vehicles, shall be routed via the District Council's Abbey End car park and the direct access to the proposed development from the public highway Station Road. Reason: In the interests of highway safety, in accordance with the requirements of Policy TR1 of the Warwick District Local Plan; |
| (34) | notwithstanding the Town and Country Planning (Use Classes) Order, 1987 (or any order revoking and re-enacting that Order, with or without modification) the supermarket shall be used for the sale of food or other convenience goods, notwithstanding the ancillary use of up to 15% of the net floor area for the sale of other goods. Reason: To protect the viability and vitality of the town centre, in accordance with Warwick District Local Plan Policy TC3; |
| (35) | the shared access from Warwick Road is for access to the residential parking. This route shall be physically separated from the Service Area so as not to encourage through traffic. Reason: In the interests of highway safety, in accordance with the requirements of Policy TR1 of the Warwick District Local Plan; |
| (39) | the Green Travel Plan approved in accordance with details submitted under planning application W/05/2054 shall remain in place. Reason: To promote sustainable travel choices for staff in accordance with Warwick District Local Plan Policy TR2; |
| (40) | deliveries to and from the supermarket shall be undertaken in strict accordance with the 'Updated Quiet Delivery Procedures –Delivery Management Plan', dated September 2022. Reason: To protect the amenity of the area, and to satisfy the requirements of Policy BE3 of the Warwick District Local Plan; |
| (41) | no HGV deliveries shall take place outside of 07.00 hours and 23.00 hours Monday to Saturday, and 08.00 hours to 21.00 hours on Sunday. Reason: To protect the amenity of the area, and to satisfy the requirements of Policy BE3 of the Warwick District Local Plan; and |

PLANNING COMMITTEE MINUTES (Continued)

No.	Condition
(42)	no loading of home delivery vans within the rear service area shall be permitted before 06.00 hours or after 23.00 hours Monday to Sunday. Only between 06.00 hours and 08.00 hours Monday to Sunday, up to 2 home delivery vans are permitted to be loaded at the front of the store. Reason: To protect the amenity of the area, and to satisfy the requirements of Policy BE3 of the Warwick District Local Plan.

65. **W/22/0750 – Land off Gannaway Farm off Curlieu Lane and rear of Brick Kiln Close, Norton Lindsey**

The Committee considered an application from Claverdon Community Land Trust Limited for the erection of 10 affordable (discount market sales) homes.

The application was presented to Committee because of the number of objections received including one from Norton Lindsey Parish Council.

Approximately 2% of the total site area fell within Warwick District Council's (WDC) administrative boundary. The remainder of the site was in Stratford on Avon District (SDC). The only part of the site in Warwick District was the access, which already existed. All operational development i.e., the proposed dwellings and other associated works were within SDC's administration and therefore could not be considered by WDC. The existing access currently served a cul-de-sac development (Brick Kiln Close) of twelve properties. No physical works or other improvement works were proposed to it to facilitate this development, only an extension of the access road to connect into the application site which was all outside of WDC's boundary. To that end, only hedge clearance to facilitate the required visibility splays was proposed in WDC's administration and this would be undertaken within the highway verge (and was within the red line site boundary).

The officer was of the opinion that the development was acceptable in Green Belt terms. In respect of access and highway safety, the Highway Authority had raised no objection to the proposed development, with no further requirements for the area of the site within WDC. It had therefore been established that there would be no detriment to highway safety as a result of this proposed development and for this reason it was recommended that planning permission should be granted.

The following people addressed the Committee:

- Councillor Brown, representing Norton Lindsey Parish Council in objection; and
- Councillor Matecki, District Councillor, speaking in objection.

Following consideration of the report, presentation and the representations made at the meeting, it was proposed by Councillor Morris and seconded by Councillor Murphy that the application should be deferred.

PLANNING COMMITTEE MINUTES (Continued)

The Committee therefore

Resolved that W/22/0750 be **deferred** to allow Warwickshire County Council Highways officers to attend a meeting to provide clarity on why there was no objection to the WDC application when there was to the SDC application.

66. W/22/0305 – 3 Gulistan Road, Royal Leamington Spa

The Committee considered an application from O'Sullivan and Lucey for the erection of a pair of semi-detached two-bedroom houses on land adjacent to 3 Gulistan Road.

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

The officer was of the opinion that the principle of development was considered acceptable in accordance with Policy H1 of the Warwick District Local Plan as well as Policy RLS1 of the Royal Leamington Spa Neighbourhood Development Plan. The overall scale, mass and bulk of the proposed dwellings, relative to their plot size was not dissimilar to other comparable properties in the road and the design and choice of materials was considered to be in keeping with the general character of the area and street scene. There were no heritage concerns with the proposal which was not considered to cause any adverse impacts on the character and appearance of the Royal Leamington Spa Conservation Area.

There would be no harm arising to the residential amenity of the nearest neighbour (No.3) nor any other neighbouring properties and the proposed level of amenity afforded to the new dwellings was considered acceptable in regard to garden sizes and outlook. There were no material concerns in relation to waste management, air quality, noise, drainage and ecology. Additional parking surveys carried out in accordance with the adopted Parking Standards SPD confirm there was sufficient capacity on street and the lack of parking proposed with the new dwellings would not be detrimental to highway safety or residential amenity by reason of parking stress. The County Highways Authority had removed its objection and officers were now satisfied with the proposals.

It was therefore recommended that planning permission should be approved.

Councillor B Gifford, District Councillor, addressed the Committee in objection.

Following consideration of the report, presentation and the representation made at the meeting, it was proposed by Councillor Jacques and seconded by Councillor Morris that the application should be seconded.

The Committee therefore

PLANNING COMMITTEE MINUTES (Continued)

Resolved that W/22/0305 be **granted** subject to the following conditions:

- | No. | Condition |
|------------|---|
| (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 drawings 1040-09 Rev.A, 1040-10 Rev.A and 1040-11 Rev.A and specification contained therein, submitted on 17 February 2022 and approved drawing 1040-12 Rev.B and specification contained therein, submitted on 27 July 2022. 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) | 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 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) or by searching 'Construction Management Plan'. The development hereby permitted shall only proceed in strict accordance with |

PLANNING COMMITTEE MINUTES (Continued)

- | No. | Condition |
|------------|---|
| | 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; |
| (4) | the development hereby permitted shall not commence until a detailed schedule of habitat and species enhancement measures to include green roofing, swift nesting features and other enhancement measures as detailed within the submitted Preliminary Ecological Appraisal (PEA) carried out by Martin Ecology, dated August 2022, has been submitted to and approved in writing by the Local Planning Authority. Such approved mitigation and enhancement measures shall thereafter be implemented in full and maintained in perpetuity. Reason: To enhance the nature conservation value of the site and ensure no net biodiversity loss in accordance with Policy NE3 of the Warwick District Local Plan and the NPPF; |
| (5) | no part of the development hereby permitted shall commence unless and until:

(a) details of biodiversity enhancements / offsetting 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 / offsetting measures approved under (a) have been completed in strict accordance with the approved details prior to the occupation of the dwellings hereby permitted.

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

Reason: To ensure net gains in biodiversity, in accordance with the requirements of the NPPF and Policy NE3 of the Warwick District Local Plan 2011-2029; |
| (6) | notwithstanding details contained within the approved documents, prior to commencement of development (within its relevant phase), a Sustainability Statement |

PLANNING COMMITTEE MINUTES (Continued)

- | No. | Condition |
|------------|--|
| | <p>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;</p> <ul style="list-style-type: none">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) How proposals will de-carbonise major development;d) Details of the building envelope (including U/R values and air tightness);e) How the proposed materials respond in terms of embodied carbon;f) Consideration of how the potential for energy from decentralised, low carbon and renewable energy sources, including community-led initiatives can be maximised;g) 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,<p>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.</p><p>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);</p> |
| (7) | <p>the development hereby permitted shall either:</p> <ul style="list-style-type: none">a) Be timetabled and carried out to avoid the bird breeding season (March to September inclusive) to prevent possible disturbance to nesting birds.b) Not commence until a qualified ecologist has been appointed by the applicant to |

PLANNING COMMITTEE MINUTES (Continued)

- | No. | Condition |
|------------|--|
| | inspect the vegetation to be cleared on site for evidence of nesting birds immediately prior to works. If evidence of nesting birds is found works may not proceed in that area until outside of the nesting bird season (March to September inclusive) or until after the young have fledged, as advised by the ecologist. Reason: To ensure that protected species are not harmed by the development in accordance with Policy NE2 of the Warwick District Local Plan 2011-2029; |
| (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 be carried out strictly in accordance with the approved Drainage Plan (1040-12b) and Drainage Statement (1040-DS).

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing and phasing arrangements embodied within the scheme.

Reason: To prevent the increased risk of flooding; to improve and protect water quality; to improve habitat and amenity; and to ensure the future maintenance of the sustainable drainage structures in accordance with Policies FW1 and FW2 of the Warwick District Local Plan 2011-2029; and |
| (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 |

PLANNING COMMITTEE MINUTES (Continued)

No.	Condition
	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.

67. **W/19/1030 – Oakley Grove Phase 3, Land off Harbury Lane and Oakley Wood Road, Royal Leamington Spa**

The Committee considered an outline application from AC Lloyd Homes Limited for a proposed primary school and secondary school with Sixth Form, sports pitch provision including flood lights, land for use as a country park and a residential development of up to 150 dwellings, with all matters reserved apart from access.

Planning permission W/19/1030 was previously presented to Planning Committee on 5 November 2019. The recommendation to Committee was to grant outline planning permission, subject to the various conditions listed in the report as well as a Section 106 Agreement to secure a range of obligations from the owner. The Section 106 was thereafter signed, and the decision issued on 1 June 2020.

Since the decision was issued, it was noted that the term "relevant dwelling" for education purposes within the agreement was not defined.

Officers required a Committee resolution to allow the provision of a Deed of Variation to insert the definition of "relevant dwelling" into the Section 106 Agreement for completeness. Within the Section 106 Agreement the definitions of 'primary education contribution', 'primary SEN contribution' and 'post 16 education contribution' refer to 'relevant dwellings', which needed to be defined.

The definition would be added as follows: - relevant dwelling:

"means any Dwelling permitted by the Planning Permission excluding any Dwelling only having one bedroom and excluding any Dwelling which is designed and built specifically for use by elderly or retired persons."

The above was a standard definition within the context of the education contribution and ensured that contributions were only sought in respect of dwellings where children were likely to live.

An addendum circulated at the meeting advised that applicant should be listed as AC Lloyd Homes Limited, rather than Wilmot Dixon Construction Ltd.

PLANNING COMMITTEE MINUTES (Continued)

Following consideration of the report and presentation, it was proposed by Councillor Norris and seconded by Councillor Kennedy that the definition of "relevant dwelling" was to be incorporated through a Deed of Variation to the Section 106 agreement.

The Committee therefore

Resolved that the definition of "relevant dwelling" be incorporated through a Deed of Variation to the Section 106 Agreement on planning permission W/19/1030.

The definition would be added as follows: - relevant dwelling:

"means any Dwelling permitted by the Planning Permission excluding any Dwelling only having one bedroom and excluding any Dwelling which is designed and built specifically for use by elderly or retired persons."

68. W/21/1612 – 12 Piers Close, Warwick

The Committee considered an application from Ms Bayliss for a change of use from dwellinghouse (use Class C3) to a mixed use (sui generis) comprising a dwellinghouse and a hairdresser.

The application was presented to Committee because of the level of support the application had received from member of the public. The recommendation was that the application should be refused.

The officer was of the opinion that planning permission for the proposed change of use should be refused on the basis that it would conflict with Policies TC2, TR3 and BE3 of the Local Plan. The scheme was not considered to deliver a sustainable pattern of development because of its location outside of the town centre whereby there would be a negative impact on the vitality and viability of the town centre and, it had not been demonstrated that the increased demand for on-street parking likely to arise would not adversely impact on the amenity of the neighbours through displacement. It had also not been demonstrated that the proposal would not result in harm to residential amenity by reason of noise and disturbance.

An addendum circulated at the meeting advised that the agent for the application had provided some further information in regard to the parking capacity of the site which had been passed on to WCC Highways for further comment. No updated response had been received.

An additional public objection had been received in respect of the accuracy of vehicle parking/swept path information submitted during the course of the application.

The Principal Planning Officer advised the Committee of a late update submitted that afternoon. Refusal reason no. 3 stated on the report had

PLANNING COMMITTEE MINUTES (Continued)

now been removed following the withdrawal of the objection made by Environmental Health officers, subject to conditions requiring a sound insulation scheme and a suitable air/odour filtration scheme.

In response to questions, officers made clear that even if it could be proven that there was sufficient parking capacity should a parking survey be carried out, there was still the objection on the change of use to consider.

Following consideration of the report, presentation and information contained in the addendum, it was proposed by Councillor Dickson and seconded by Councillor Quinney that the application should be refused.

The Committee therefore

Resolved that W/21/1612 be **refused** for the following reasons:

- | No. | Refusal Reasons |
|------------|--|
| (1) | <p>Policy TC2 (Directing Retail Development) of the Warwick District Local Plan 2011-2029 states that it is important that any retail development proposals are directed to town centres in the first instance; an approach that is entirely consistent with Government policy. The primary objective of this policy is to maintain and enhance the vitality and viability of town centres through new retail development and to promote sustainable development.</p> <p>The applicant seeks to locate a retail use in a dwellinghouse within a residential area of Warwick, which is outside of the town centre. This would have a harmful impact on the vitality and viability of the town centre by directing a service away from this area and reducing footfall. It would also constitute an unsustainable form of development and would also set an undesirable precedent for similar development if approved.</p> <p>The proposed change of use would conflict with the aims of Policy TC2; and</p> |
| (2) | <p>Policy BE3 of the Warwick District Local Plan 2011-2029 states (inter alia) that development will not be permitted which has an unacceptable adverse impact on the amenity of nearby uses and residents.</p> <p>Policy TR3 of the Local Plan does not support development which has the potential to result in on-street car parking detrimental to highway safety. The LPA has also adopted Parking Standards SPD.</p> |

PLANNING COMMITTEE MINUTES (Continued)

No.

Refusal Reasons

In the opinion of the Local Planning Authority, in the absence of Parking Survey, it has not been suitably demonstrated that the proposal would not result in parking which is detrimental to highway safety and residential amenity. The block plan demonstrates that the three parked vehicles would be unable to leave the driveway independently and it is therefore likely that on-street parking would be more convenient and preferential for the clients.

Without a Parking Survey, the LPA are unable to determine whether the increased demand for parking in the street would have an adverse impact on the amenity of the neighbours through displacement and parking stress.

The proposal is thereby considered to be unneighbourly and contrary to the aforementioned policies.

69. W/22/1156/HS2 – Land to the west of No. 1 Stareton Lane, Stoneleigh

The Committee considered an application from Mr Underhill for a Certificate of Appropriate Alternative Development under Section 17(3) of the Land Compensation Act 1961 for the erection of affordable dwellings falling within Class C, the siting of stables, the erection of solar pv panels, the change of land for domestic garden and use of land for horticulture.

The parcel of land was subject to compulsory purchase by HS2. If the HS2 scheme were to be cancelled this application was to determine if there may have been a reasonable prospect for this land to be granted planning permission for a different form of development. Such planning permissions could enhance the land value in the future as it could have been marketed with planning permission.

Section 14 of the Land Compensation Act 1961 provided a mechanism for these planning permissions to be assumed for the purposes of assessing the value of parcels of land which may be subject to compulsory purchase. The assumptions were on the basis that if the development (in this case HS2) had been cancelled on the date the notice was given what planning permission may have been granted.

This application provided a method to provide a conclusive determination as to how the land was to be valued on the assumption it had the benefit of planning permission. Under Section 17 of the Act an applicant may seek a certificate to confirm if there was any appropriate alternative development. The outcome of any certificate could be positive in so far as that it was considered that that the land was appropriate for alternative development

PLANNING COMMITTEE MINUTES (Continued)

or a nil certificate where the land was not considered appropriate for alternative development.

The onus was on the Applicant to demonstrate the reasons why they considered that the land was appropriate for alternative development and specify each development which they considered would have been granted.

The Local Planning Authority (LPA) could issue a Certificate in line with Section 17 (1) which stated that:

- 'a) there is appropriate alternative development for the purposes of section 14 (a 'positive' certificate); or
- b) there is no development that is appropriate alternative development for the purposes of section 14 (a 'nil' or 'negative' certificate)'.

The LPA was required to specify all development which was appropriate even if it was not specified within the application. Where the opinion of the LPA was that planning permission might reasonably have been expected to be granted but subject to conditions or at a future time the decision should specify this including the conditions.

The officer was of the opinion that the principle of a horticultural business on the site was supported by policy, subject to an appropriate scale of the use and size, siting and design of the building and landscaping. It was therefore recommended to issue a positive conditional certificate for this development type.

It was recommended that a Negative Certificate be issued for the remainder of the developments outlined by the Agent. No other planning uses, or development were considered to be appropriate on the land.

An addendum circulated at the meeting advised that the conclusion to the Equestrian Development section of the report should include:

"In the absence of any 'very special circumstances' which clearly outweigh the harm to the openness of the Green Belt, by virtue of the development representing 'inappropriate development' and introducing harm through built form, the principle of the development is not supported by Policy DS18 or paragraphs 147, 148, 149 and 150 of the NPPF."

The addendum also updated the recommendation in the report as follows:

"A Positive Certificate be Issued for a Horticultural Building which meets the definition of agriculture:"

Condition 1 was also to be updated to "Limit the use to horticulture which falls within the definition of agriculture".

Following consideration of the report, presentation and information contained in the addendum, it was proposed by Councillor Morris and seconded by Councillor Jacques that a part positive and part negative certificate be issued.

PLANNING COMMITTEE MINUTES (Continued)

The Committee therefore

Resolved that with regard to W/22/1156/HS2:

(1) a **Positive Certificate** be issued for a Horticultural Building which meets the definition of agriculture subject to the following conditions:

- limit the use to horticulture which falls within the definition of agriculture;
- finish and size of any buildings;
- landscaping;
- hours of use and numbers of visitors;
- lighting;
- parking layout;
- waste management; and
- climate change mitigation condition; and

(2) a **Nil/Negative Certificate** be issued for the following development types advanced by the Applicant:

- private stables;
- commercial equine use with full, part or DIY livery;
- an exception site for two no. semi-detached affordable dwellings;
- a renewable energy scheme (temporary period of use with approximately 750 solar panels); and
- a garden extension (for 1 Stareton which is the adjacent dwelling).

70. **Planning Appeals Report**

Members received a report from officers outlining the existing enforcement matters and appeals currently taking place.

Resolved that the report be noted.

(The meeting ended at 7.50pm)

CHAIRMAN
8 November 2022

Planning Committee: 8 November 2022

Item Number: 5

Application No: [W 22 / 0450](#)

Town/Parish Council: Leamington Spa
Case Officer: Helena Obremski

Registration Date: 11/03/22
Expiry Date: 10/06/22

01926 456531 Helena.Obremski@warwickdc.gov.uk

Former Mothercare Unit, Leamington Shopping Park, Tachbrook Park Drive, Warwick, CV34 6RH

Variation of condition 5 (BREEAM assessment) of planning permission W/21/0179 to replace the requirement for BREEAM Very Good certification with the BREEAM GAP assessment and Stage 4 synopsis documents. FOR Aldi Stores Limited

This application is being reported to Planning Committee because it is recommended that planning permission be granted subject to the completion of a legal agreement.

Recommendation

Planning Committee are recommended to GRANT planning permission, subject to the conditions listed in the report and the completion of a satisfactory Section 106 agreement.

Planning Committee are also recommended to delegate authority to the Head of Development Services to finalise the terms of the Section 106 agreement.

Should a satisfactory Section 106 agreement not have been completed by 9th December 2022 and there is no ongoing progress towards the satisfactory completion of the Section 106 Agreement, Planning Committee are recommended to delegate authority to the Head of Development Services to REFUSE planning permission on the grounds that the proposal makes inadequate provision in respect of the issues the subject of that agreement.

Relevant Planning History

W/21/0179 - planning permission granted for demolition of existing building and erection of a food retail store (Class E(a)) with associated car parking, servicing and landscaping, off Tachbrook Park Drive.

The Site and its Location

The application relates to a former redundant retail unit, which has been demolished following the grant of permission W/21/0179 for a new foodstore, located at an out of town shopping centre within Leamington Spa. The red line site plan also incorporates a modest area of parking currently used by the former Aldi foodstore to the east of the application site. The car parking area serving the

former application property was shared with another large retail unit, positioned to the north west of the application site, which is also owned by the applicant.

Whitnash and Heathcote are located further to the north, south and east of the application and the site is bound to the west by the extensive Leamington Shopping Park.

Details of the Development

The scheme remains the same as implemented permission W/21/0179 and seeks only to vary condition 5. Condition 5 requires that a Design Stage Assessment by an accredited BREEAM assessor demonstrating how the development will be designed and constructed to achieve as a minimum BREEAM standard 'very good' (or any future national equivalent) is submitted and approved by the Council. The applicant proposes to submit a BREEAM GAP assessment and Stage 4 synopsis documents instead of the Design Stage Assessment.

As the scheme remains largely the same as permission W/21/0179, therefore only the above amendments are considered below. Matters not relating to the proposed changes are not considered below.

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
- TR2 - Traffic generation
- TR3 - Parking
- NE5 - Protection of Natural Resources
- TCP1 - Protecting and Enhancing the Town Centres
- TC2 - Directing Retail Development
- FW2 - Sustainable Urban Drainage
- CC2 - Planning for Renewable Energy and Low Carbon Generation
- CC3 - Buildings Standards Requirements

Guidance Documents

- Parking Standards (Supplementary Planning Document- June 2018)
- Distance Separation (Supplementary Planning Guidance)
- The 45 Degree Guideline (Supplementary Planning Guidance)
- Air Quality & Planning Supplementary Planning Document (January 2019)

SUMMARY OF REPRESENTATIONS

Royal Leamington Spa Town Council: No objection.

Warwick Town Council: No comment.

WCC Ecology: Neutral, no comment.

Public Responses:

1 Support: Query regarding access and parking arrangements. Query regarding what will happen with former Aldi site.

Assessment

Sustainability

As the proposal results in the construction of over 1,000sqm of non-residential floorspace, Local Plan policy CC3 states that the development must be designed and constructed to achieve a minimum BREEAM standard 'very good', ***or*** a suitable alternative sustainability strategy is provided and agreed with the Council.

The applicant proposes an alternative sustainability strategy to address the requirements of the Local Plan, which is the provision of a BREEAM GAP assessment and Stage 4 synopsis documents instead of the Design Stage Assessment.

The application form states that Aldi are committed to delivering a low whole life carbon building at the site and developing a thermally efficient building with minimal carbon embodiment, which will continue to significantly reduce the operational carbon generation during the stores lifecycle. This will be achieved through plant efficiency improvements and demand offset by on-site renewable energy generation. The applicant considers that a BREEAM assessment would not be reflective of the stores sustainability performance due to there being certain criteria that the store cannot score against as a result of the use type and need to maximise the operational efficiency of the site and building form.

The applicant considers that the provided BREEAM GAP performance review and associated Stage 4 carbon assessment represents a holistic sustainability assessment and overview of the new development, which demonstrates a significant improvement in performance when compared to traditional retail development.

The BREEAM GAP assessment demonstrates the theoretical BREEAM rating that would be achieved by the new development. The report informs that a rating of 'very-good' would be achieved through a variety of measures, including water consumption, responsible sourcing of construction products and energy use.

A Stage 4 Carbon Assessment Synopsis is also provided with the application. It provides an overview of the stores embodied, operational and lifecycle carbon

totals. This uses the Dutch Green Building Council targets as a metric to score the proposed development against. The document advises that this benchmark was chosen in place of a UK metric due to their being a lack of suitable benchmark for retail development.

The Synopsis informs that the whole life carbon emissions reduction of 67% are predicted, compared to the baseline, through a combination of savings in embodied carbon and operational carbon, saving an estimated (approx.) 4,700 tonnes of CO2 over the lifecycle of the store. This exceeds 'Gold +' standard of design, the highest rating.

It is now more widely acknowledged that securing several of the standard BREEAM credits is limited when designing bespoke buildings, such as that which is proposed. It is also relevant to note that the Council is currently drafting a Net Zero Carbon DPD, which will move away from the use of BREEAM as a measure of sustainability, and will focus on carbon neutrality.

It must also be acknowledged that where a new building is being built on an existing site (as proposed in this application), the location of the site and the extent of available land will also have a bearing on the opportunity to obtain credits and that these factors will frequently restrict a development's performance against BREEAM standards. Given how prescriptive BREEAM is and that it has acknowledged limitations when applied to a non-standard building type, it is accepted that other sustainability assessment tools may often provide a more appropriate and more effective alternative.

Ultimately, the purpose of policy CC3 is to deliver reductions in carbon dioxide emissions, building running costs, energy consumption and water use. The BREEAM GAP assessment demonstrates that the development would achieve the 'very good' rating required by the policy, but has more of a focus on carbon reduction through out the lifecycle of the building, which as stated above, is the more pertinent focus of concern both for the Council and Government more widely (eg. amendment to Climate Change Act in 2019 which introduced legally binding target to achieve 'net zero' by 2050).

In conclusion, the proposal would still meet with the requirements and overall aims of Local Plan policy CC3 and therefore Officers consider that the alternative sustainability approach meets the requirements of the aforementioned policy. Further information will still be required in order to demonstrate that the proposed carbon reduction measures have been installed, after completion of the building. The application 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 drawings:

H20A40-P010 (floor plan), H20A40-P011 (roof plan), H20A40-P021 (elevations), H20A40-P030 (sections), H20A40-P040 (visuals), MEL-467-001-P3 (soft landscaping scheme), submitted on 29th January 2021, and

H20A40-P003 (site plan), submitted on 25th March 2021,

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.

- 2 The development hereby permitted shall not commence unless and until tree protection measures have been submitted to and approved in writing by the LPA and the approved measures have been put into place. The approved measures must remain in place for the duration of demolition and construction works. The proposals must refer to all the trees within the site as well as those highway trees on the approach that may be affected by the proposed demolition and re-development, and must include:

a] an arboricultural method statement and tree protection plan in accordance with British Standard BS 5837:2012 Trees in relation to design, demolition and construction – Recommendations, Clause 7 in particular

b] an arboricultural site monitoring protocol that will confirm to the local planning authority by independent examination that the agreed tree protection measures are in place for the duration of the development

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.

- 3 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 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) 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.

- 4 Prior to commencement of development, a Sustainability Statement including 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.
 - a) 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.
 - a) How proposals will de-carbonise major development.
 - a) Details of the building envelope (including U/R values and air tightness).
 - a) How the proposed materials respond in terms of embodied carbon.
 - a) Consideration of how the potential for energy from decentralised, low carbon and renewable energy sources, including community-led initiatives can be maximised.
 - a) 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,

The development shall not be 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 (2021).

- 5 Within six months of the first occupation of the development, a report shall be submitted to and approved in writing by the Local Planning Authority demonstrating that the energy efficiency measures detailed within the Stage 4 Carbon Assessment Synopsis and BREEAM GAP assessment have been implemented in full. These measures shall be retained as per the approved details or replaced with a betterment in energy efficiency terms. **Reason:** To deliver reductions in carbon dioxide emissions, building running costs, energy consumption and water use in accordance with the provisions of Policy CC3 in the Warwick District Local Plan 2011-2029.

6 No development, other than works of demolition, shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority in consultation with the LLFA. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall:

- Demonstrate that the surface water drainage system(s) are designed in accordance with 'The SuDS Manual', CIRIA Report C753.
- Demonstrate detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details of any attenuation system, and outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods.
- If discharging to a drainage system maintained/operated by other authorities (Environment Agency, internal drainage board, highway authority, sewerage undertaker, or Canals and River Trust), evidence of consultation and the acceptability of any discharge to their system should be presented for consideration.
- Provide plans and details showing the allowance for exceedance flow and overland flow routing, overland flow routing should look to reduce the impact of an exceedance event.

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.

7 No development shall be carried out above slab level unless and until a hard 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. **Reason:** 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.

- 8 Prior to the occupation of the development hereby permitted, the air quality mitigation measures outlined within the BWB technical note (Ref. ALS-BWB-VUT-ZZ-RP-G-0001_TN, Rev 2, dated 8th June 2021) shall be implemented in full. 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.
- 9 Within twelve months of the first occupation of the development hereby permitted, the applicant shall submit a Travel Plan to promote sustainable transport choices to the site for approval by the local planning authority in writing. The measures (and any variations) approved shall continue to be implemented at all times thereafter. **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.
- 10 No deliveries, waste collections or other noisy external activities likely to cause nuisance to nearby residents shall take place before 0700 hours or after 2100 hours on Monday to Saturday or before 0900 hours or after 1800 hours on Sundays. **Reason:** To protect the amenities of occupants of nearby properties in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.
- 11 Noise arising from any plant or equipment (measured as LAeq,5 minutes), when measured (or calculated to) one metre from the façade of any noise sensitive premises, shall not exceed the background noise level (measured as LA90,T). If the noise in question involves sounds containing a distinguishable, discrete, continuous tone (whine, screech, hiss, hum etc) or if there are discrete impulses (bangs, clicks, clatters, thumps etc.) or if the noise is irregular enough to attract attention, 5dB(A) shall be added to the measured level. **Reason:** To protect the amenities of the occupiers of nearby properties in the locality in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.
- 12 The use of the lighting for the approved development shall be carried out and operated only in full accordance with the external lighting report and specification document prepared by Building Management Technology (Ref. B3621 (79_E1461), Issue A, dated 11th January 2021) and lux plot drawing (Drawing No. 79_E1461-BMT-XX-XX-DR-E-0105-A3-P01). **Reason:** To ensure that any lighting is operated so as not to detrimentally affect the amenities of the occupiers of nearby properties in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.

- 13 No occupation and subsequent use of the development shall take place until a detailed maintenance plan is implemented and provided to the LPA giving details on how surface water systems shall be maintained and managed for the lifetime of the development. The name of the party responsible, including contact name and details shall be provided to the LPA within the maintenance plan. **Reason:** To ensure the future maintenance of the sustainable drainage structures.
- 14 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.
- 15 No development shall be carried out above slab level 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. **Reason:** 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.
- 16 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 safeguard health, safety and the environment in accordance with Policies BE3 and NE5 of the Warwick District Local Plan 2011-2029.
- 17 The development hereby permitted shall not be occupied until a scheme for the provision of adequate water supplies and fire hydrants necessary for firefighting purposes at the site, has been submitted to and approved in writing by the local Planning Authority. The approved scheme shall be implemented in full prior to occupation of any dwelling to the satisfaction of the Local Planning Authority. **Reason:** In the interests of Public Safety from fire and the protection of Emergency Fire Fighters.

- 18 The development hereby permitted shall be carried out in strict accordance with the approved soft landscaping scheme. 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 in accordance with Policies BE1, BE3 and NE4 of the Warwick District Local Plan 2011-2029.
- 19 The development hereby permitted shall be carried out to wholly accord with the detailed mitigation and enhancement measures as set out in the document 'Ecological Mitigation Strategy' (Revision B) prepared by Middlemarch Environmental Ltd. **Reason:** To ensure that protected species are not harmed by the development in accordance with the requirements of policy NE2 of Warwick District Local Plan 2011 - 2029. In order to discharge the condition above, a brief report from an ecologist following the bat and bird box installation must be submitted to and approved by the Local Planning Authority (with advice from WCC Ecological Services).
- 20 The development hereby permitted shall not be occupied unless and until the car parking and manoeuvring areas, and cycle parking areas indicated on the approved drawings have been provided and thereafter those areas shall be kept marked out and available for such use at all times. **Reason:** To ensure adequate off-street car parking and servicing facilities in the interests of both highway safety and visual / residential amenity in accordance with Policies BE1, BE3 and TR3 of the Warwick District Local Plan 2011-2029.
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Application No: [W 22 / 0484](#)

Town/Parish Council: Bishops Tachbrook
Case Officer: Helena Obremski

Registration Date: 07/04/22
Expiry Date: 07/07/22

01926 456531 Helena.Obremski@warwickdc.gov.uk

Land off Europa Way, Tachbrook Country Park, Leamington Spa.

Hybrid application for outline planning application for erection of a refreshment centre and full planning application for creation of a country park, to include allotments, community growing area and community orchards, children's play areas, car parking, foot and cycle paths, timber pedestrian bridge crossings over the Tach Brook, drainage ditches, associated surface water and foul drainage infrastructure, landscaping and ground works FOR Warwick District Council

This application is being presented to Committee due to the number of objections received and because that the applicant is Warwick District Council.

RECOMMENDATION

Planning Committee are recommended to GRANT planning permission, subject to the conditions listed in the report.

Details of the Development

This is a hybrid planning application comprising a full planning application for change of use of the existing site from former agricultural use to a country park. Outline planning permission is also sought for the for the construction of a refreshment centre.

The Country Park would provide 48.9ha of publicly accessible open space and will include:

- Surfaced footpaths including a 3m wide sealed tarmac surfaced footpath/cycleway, 1.8m informal gravel walking routes and mown paths throughout the site.
- Three pedestrian timber bridges: two bridges crossing the Tach Brook providing access to a new footpath on adjacent land to the south of the watercourse; and one bridge crossing an existing drainage ditch.
- Timber viewing platform with views over the existing ecological wetland area, for which public access is to be restricted.
- Two allotment areas to serve local residents; one to the north-west of the site of 0.41ha and one to the south-east of 0.56ha.
- Community orchards; one to the north-west of the site of 0.81ha, one to the east of 0.25ha and one to the south-east of 0.65ha.
- A community growing area to the north-west of the site of 0.31ha.
- Two car parks, one to the north-west of the site for 20 spaces and one to the south-east for 16 spaces.

- A children's play area using natural materials located near to the refreshment centre.
- A play trail within the western part of the site using natural materials.
- Landscaping, including new native woodland planting to provide screening between the housing to the north and the development.
- Areas of meadow grassland and natural habitat creation including planting around the SuDS features to be delivered as part of separate planning applications.
- Sustainable drainage features including filter drains to manage run-off from the impermeable areas within the park.
- A small package pumping station to manage foul water drainage from the refreshment centre.
- Localised enhancement to the Tach Brook including the management of trees.

A small refreshment centre measuring up to 130sqm would be located within the eastern part of the site. As this is submitted in outline, with all matters reserved, only the principle of locating a refreshment centre within the site can be considered as part of this application, although the plans do identify where it is likely to be located. The appearance, associated landscape, layout and scale of the refreshment centre would be considered as part of a later reserved matters application.

Minor changes have been made to the proposal during the course of the application in response to consultee comments as follows:

- removal of some hedgerow to southern end of the Park to respond to concerns regarding security;
- revision of planting mix to address comments from WCC Ecology and WCC Landscape;
- revisions to address various comments from Green Spaces Team;
- alterations to the layout of the northern access following requirements to update drainage from LLFA.

Owing to the scale of the site, it would likely be delivered in phases, and as such the proposed conditions have been worded in such a way to allow this.

The Site and its Location

The site covers an area of 48.9ha adjacent to the south of the Leamington Spa and Whitnash urban area and consists primarily of open fields previously used for agriculture, with some woodland adjacent to the Tach Brook watercourse. A portion of land in the centre of the site is owned by Severn Trent Water Ltd (STWL) and is a former Wastewater Treatment Works.

Relevant Planning History

W/19/1030 - outline planning permission granted for a proposed Primary School and Secondary School with 6th Form, sports pitch provision including flood lights, land for use as a Country Park and a residential development of up to 150 dwellings, with all matters reserved apart from access.

An application for an Environmental Impact Assessment screening opinion was submitted for the proposed development (SCR/21/0005) and the Council confirmed that the proposal would not require a full Environmental Impact Assessment.

There have been various applications submitted for housing development nearby to the application site. There have been a number of recent planning applications in respect of the adjacent Heathcote Southern Urban Extension development for which some of the surface water drainage (SuDS) infrastructure have been constructed or are planned to be constructed within the Country Park, together with proposed allotments.

RELEVANT POLICIES

- National Planning Policy Framework

Warwick District Local Plan 2011-2029

- DS13 - Allocation of Land for a Country Park
- CT1 - Directing New Meeting Places, Tourism, Leisure, Cultural and Sports Development
- BE1 - Layout and Design
- BE3 - Amenity
- TR1 - Access and Choice
- TR2 - Traffic generation
- TR3 - Parking
- HS1 - Healthy, Safe and Inclusive Communities
- HS6 - Creating Healthy Communities
- HS7 - Crime Prevention
- CC1 - Planning for Climate Change Adaptation
- FW1 - Development in Areas at Risk of Flooding
- FW2 - Sustainable Urban Drainage
- HE1 - Protection of Statutory Heritage Assets
- HE4 - Archaeology
- NE1 - Green Infrastructure
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- NE3 - Biodiversity
- NE4 - Landscape
- NE5 - Protection of Natural Resources

Bishop's Tachbrook Neighbourhood Plan

- BT1 - Conserving and Enhancing Bishop's Tachbrook's Landscape Character
- BT2 - Tachbrook Country Park
- BT3 - Green Infrastructure
- BT4 - Traffic Management and Transport Improvements
- BT5 - Improving Accessibility for All
- BT9 - Development within the Bishop's Tachbrook Conservation Area

- BT12 - Responding to Climate Change

Guidance Documents

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

SUMMARY OF REPRESENTATIONS

Bishops Tachbrook Parish Council: Support the application:

- Long awaited amenity for residents of Bishops Tachbrook and a requirement within the Neighbourhood Plan.
- One of the key aspects is connections and provision of Green Infrastructure.
- Refreshment centre will provide a venue for people to meet and draw old and new communities together.
- Pathways will provide safe and healthier routes to explore the whole Parish and beyond.
- However, the Parish Council would welcome responses to some of the concerns raised by residents, including:
 - the safety of the Country Park, notably in the southern most corner;
 - the original plans not including parking in the southern area which will encourage people to use the car rather than walk at the expense of walking and cycling, leading to more traffic problems in village;
 - the proximity of footpaths to new housing;
 - the loss of country park land as the school is developed;
 - a request for oak trees as replacement trees;
 - a query as to whether community orchards can accommodate the proposed number of trees and the maintenance of them;
 - the bridge link, and permissive path and the impact on wildlife and flooding concerns;
 - are allotments necessary.

Conservation Officer: No objection.

WCC LLFA: Inadequate details on surface water provided – further comments on revised details awaited.

WCC Landscape: Some outstanding queries regarding species selection and relationship with Oakley Grove School.

Green Spaces: Various queries and request for minor amendments - – further comments on revised details awaited.

Tree Officer: No objection, subject to condition.

WCC Highways: No objection, subject to conditions.

WCC Archaeology: No objection, subject to condition.

WCC Public Rights of Way: No objection.

Environmental Health: No objection, subject to conditions.

Environment Agency: No objection.

WCC Ecology: No objection, subject to conditions.

Warwickshire Wildlife Trust: Concern that there will be the potential for short term impacts to facilitate these activities and the change in use of the site to a country park will eventually result in increased levels of human disturbance and noise through increased recreation. Requests additional surveys to be provided - further comments on revised details awaited.

Warwickshire Police: No objection, makes various recommendations.

WCC Infrastructure: No contributions required.

Public Responses:

14 Objections:

- Need: refreshment centre, toilet block and play area to the east are unnecessary - will result in noise disturbance, odour and traffic generation, loss of privacy; the development is unnecessary, there are already underutilised play areas and public footpaths which are used; moving the allotments has little benefits to residents of Bishops Tachbrook and is not needed by local residents - they should be located closer to the south of the Leamington residential development where they are needed, within housing sites, thereby reducing travelling distance and reliance on the car; Bishops Tachbrook residents will not feel the benefits of any facilities within the park as they are too far away to walk.
- Amenity: loss of privacy to neighbouring gardens; footpath too close to residential areas; noise disturbance, loss of light, anti-social behaviour concerns; impact from construction works.
- Landscape Character: detrimental impact on the character of the area and rural landscape; overdevelopment of a small strip of land; too much tarmac - natural pathways would be better; not a park, more a strip of land.
- Parking: the northern car parking area should be made larger and the southern one removed / made smaller.
- Footpaths: hazardous because some are only 80cm wide, steeply inclined and immediately next to two grated road drainage covers, this would be generally hazardous but particularly so for wheelchair users, infant prams and buggies, etc. The joining point of the existing and proposed footpaths is also obscured by a street lamp-post and represents the only safe and logical place to leave wheely-bins thus increasing the obstruction.
- Cycle paths: vast amount of cycle paths and associated noise disturbance, loss of privacy, traffic generation.
- Ecology: detrimental impact on wildlife.
- Flooding: concerns regarding the proposed wooden footbridge and land on the south side which regularly floods, so is unsuitable for pathways or access on

safety grounds; many of the areas are prone to flooding and will be unusable even with walkways - how will this be mitigated?

- Crime / safety: the hedging planned to screen off the allotments on one side and the orchard trees planned on the other side will make the narrow footpath at the southernmost corner feel closed in, dark, shadowed and unsafe - this not only negates the open field, open space feeling of the country park, but also disproportionately affects women who are more likely to be nervous of walking on their own due to recent and historical instances of attacks on lone women.
- Refreshment centre will cause littering.
- The country park was to be a lot larger than as proposed.
- Consultation: the plans ignores consultation responses – the circular route around the park and the gravel paths are not fit for purpose; query on whether 1.4 hectares of play areas are proposed, and whether they will be designed in consultation with residents of all abilities.
- Community orchard: how will windfall fruit be managed to avoid the area becoming overrun with rats and odours?
- Disabled access: because of the steep gradients of the country park it seems as though the northern and southern parts will not be accessible between each other until the Severn Trent planning permission is agreed, preventing full accessibility for all residents. A disability friendly temporary access (until the Severn Trent permanent solution is enacted) must be guaranteed as part of this planning permission. Lack of changing place facility to ensure that the toilets are fully accessible. Will play equipment be fully accessible?
- Refreshment centre - why will a domestic grade kitchen be installed in a commercial refreshment centre? That is saving money in the short term but will end up needing to be replaced much more quickly, which is contrary to Warwick District Council's green policies. Planning permission should only be granted if this specification is changed to commercial grade facilities.
- Concerns regarding contaminated land.
- How will park maintenance be funded in years to come.

5 Neutral responses:

- This is more of an urban park, would prefer to see more of a Country Park which extends into Bishops Tachbrook.
- Works should not disturb wildlife.
- Comments relating to Council tax banding.
- Toilet and refreshment block and additional play areas are unnecessary – will need to be maintained and likely to experience vandalism.
- Nearby residential streets will experience parking stress.
- Query whether horses will be allowed to access the site.
- Query regarding who will empty dog poo bins.
- The school should be built on the flat / level land near the Oakley Wood Road / Harbury Lane junction, not into the hillside at extreme extra cost - and it will look an eyesore
- Lack of consultation on what should be included within the park.
- Impact on wildlife.
- Control of rubbish and other activities at the park.

9 Support responses:

- How will the plans be published more widely so that more people have chance to comment on the application?
- Queries pedestrian access arrangements from Bishops Tachbrook.
- Excited about new addition to the local area which will add value.
- Maximum care should be taken to protect wildlife.
- Lack of parks and playgrounds in local area.
- Will provide open space, cycle paths, walkways to boost mental and general health of residents.
- The land is allocated in the local plan, is a public requisite, good for the local community, and a key feature of the Local Plan and Neighbourhood Plan.
- Provides physical links connecting the community and amenities of Bishops Tachbrook with the park.
- New residents await enjoyment of the open space.
- Pathways will provide a safe and healthier route for children to walk and cycle to school.
- The cafe/ hub will provide a venue for people to meet and enjoy the open space together. In particular, the parents of younger children attending nursery and primary school, who will form long-standing friendships that will help to build and strengthen the community.
- The country park will link through to other green corridors designated in the Local Plan, allowing residents to walk or cycle along safe, car free routes to Warwick and Leamington.
- The speed of the road should be reduced along Oakley Wood Road to ensure safe access.
- Country Park should be friendly for the disabled.
- Query regarding impacts on skylarks and potential unsuitable habitat for these red-list birds and that the paths will bring too much footfall and dog-walking near to nesting sites.

Assessment

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

- The Principle of the Development;
- Impact on Amenity;
- Impact on Heritage Assets;
- Archaeological Impact;
- Impact on Landscape;
- Highway Safety, Traffic Generation and Parking;
- Trees;
- Open Space;
- Ecological Impact;
- Air Quality;
- Drainage and Flood Risk;
- Contaminated Land;
- Other Matters.

The Principle of the Development

The majority of the application site is identified within the Local Plan as being land allocated for use as a Country Park, as stated within policy DS13. There is an additional area of land which lies outside of the allocation in the Local Plan included within the application red line. However, this was granted outline planning permission for use as part of the Country Park (W/19/1030), so therefore has permission for this use. Moreover, the whole of the application site under consideration is identified in the Bishops Tachbrook Neighbourhood Plan as being protected as Country Park land. Policy BT2 of the Neighbourhood Plan states that the Country Park will act as a green link, an area of both connection and separation, between the historic established and developing settlements within the community.

The policy goes on to say that outdoor recreational uses, infrastructure and small buildings will be supported. Connections to the Country Park to link existing and new residential areas with community facilities will be encouraged. Outdoor sport and recreation uses compatible with the area, protection and creation of new habitats, and signage and information infrastructure will be encouraged.

The Country Park is considered to appropriately meet the aims of the Neighbourhood Plan, in that it provides new public footpaths which link the village of Bishops Tachbrook to the south of Leamington and its facilities, via green links. It still maintains the sense of separation between the two areas, whilst providing such functionality. New play areas will be delivered which will serve the local communities and large areas of new habitats will be created. Modest infrastructure such as the refreshment centre, which is considered to be a small building within the context of the site as a whole, will enhance the overall user experience.

The proposed development is also considered to substantially add to the aims of Neighbourhood Plan policy BT3 which seeks to enhance green infrastructure networks in and around the area.

Furthermore, the proposal assists in improving access, which is a key requirement of Neighbourhood Plan policy BT5 which states that proposals which improve accessibility for existing and future residents of Bishop's Tachbrook will be supported. It seeks the provision of appropriately surfaced cycle routes and footpaths through green spaces and creation of off road footpaths, cycleways and bridleways that provide connections between the village, the Country Park and new residential areas.

It is noted that the Parish Council support the application and welcome the associated benefits, which are supported within the Neighbourhood Plan. They have raised some concerns, which are addressed below. In relation to their comments which state that there will be a loss of country park as the school is developed, Officers do not consider that this is the case. The boundaries of the school and Country Park land were identified within the parameters plan associated with outline permission W/19/1030 which will not be affected as a result of this application. The school and Country Park developers have worked together to ensure that the area as a whole will come forwards comprehensively.

Therefore, it is considered that the whole of the application site for use as Country Park land is acceptable in principle and comments from members of the public regarding the size or need for Country Park and the associated development are not relevant to the assessment of this application.

Impact on Amenity

Warwick District 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. There is a responsibility for development not to cause undue disturbance or intrusion for nearby users in the form of loss of privacy, loss of daylight, or create visual intrusion.

Members of the public have objected on the following grounds: there would be a loss of privacy to neighbouring gardens; the footpaths are too close to residential areas; noise disturbance; loss of light; anti-social behaviour concerns; and, impacts from construction works. Members of the public state that there are many existing cycle paths and there would be associated noise disturbance, loss of privacy and traffic generation. The Parish Council query the proximity of footpaths to new housing.

The built features proposed, such as the timber bridges and refreshment centre, are of sufficient distance (at least 85m) from the neighbouring residential properties as not to unacceptably impact on light, outlook or privacy. Additional soft landscaping features such as woodlands, drainage ponds and new habitats will provide pleasing features which are considered to enhance long range views of the application site from adjacent residential properties. The allotments close by to neighbouring residents may result in the introduction of some low level features such as sheds, but these would be modest structures and would be separated by boundary treatments and new hedgerows.

Proposed new footpaths and cyclepaths have been located at a minimum of 20m from the nearest dwelling facade. Joining paths that connect to the residential areas will be closer due to the nature of their connection. This is considered not to be so close to neighbouring residential properties as to cause undue disturbance.

Initially, the Environmental Health Officer requested that a noise screening assessment was provided of the play area (NEAP) to the east of the site. They had concerns that there could be impacts on nearby residential dwellings. However, the applicant provided additional information on this matter and the Environmental Health Officer confirmed that following that and with reference to the Fields In Trust design guidance it is accepted that there is a sufficient buffer between the proposed NEAP and the nearest residential properties. As a result they do not require further information on this matter. There would be at least 50 metres between the nearest residential property and the play area.

The Environmental Health Officer also notes that the applicant provided a Technical Note on likely noise impacts associated with the proposed refreshment

centre. The note recommends that a full quantitative assessment is undertaken in accordance with the methodology provided in BS 4142: 2104+A1: 2019 and they recommend that this is required by condition. This has been added.

In addition to requiring a noise assessment they recommend that a condition is imposed to ensure that the ongoing use of any external plant and equipment installed at the proposed refreshment centre, does not cause noise disturbance to nearby residential dwellings. This has also been added.

Finally, to manage the impact of construction works on nearby receptors, the Environmental Health Officer recommends a condition requiring the provision of a Construction Management Plan. This has been added.

The use of the site as a Country Park is allocated in the Local Plan. The proposal would result in additional pedestrian and cycle activity within relatively close proximity of the residential areas, however, none of the activities proposed within the Country Park are likely to be particularly noisy or cause undue disturbance.

The Country Park will be separated by boundary treatments from nearby residential properties to ensure the protection of privacy and in practice, those using the Country Park are likely to want to use the vast areas of open space, rather than remaining close by to the built up areas. The proposed car parks are modest in size and would not attract significant vehicular movements which would cause undue disturbance. Officers therefore consider it unlikely that the proposed change of use and associated infrastructure will cause unacceptable impacts on neighbouring amenity.

It is therefore considered that the proposed development meets with Local Plan policy BE3.

Impact on Heritage Assets

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty when exercising planning functions to pay special attention to the desirability of preserving or enhancing the character of a Conservation Area. Section 66 of the same Act imposes a duty to have special regard to the desirability of preserving a listed building or its setting when considering whether to grant a planning permission which affects a listed building or its setting. This means that considerable importance and weight must be given to any harm caused to designated assets in the planning balance.

Paragraph 199 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 202 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance

of a designated heritage assets, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Policy HE1 of the 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.

There are Grade II listed buildings located to the east of the site, which include Tachbrook Mallory House, The Grove which has a large detached outbuilding which is listed and listed walls, and Chapel Hill Farmhouse. Mallory Court Hotel which is Grade II listed, along with its Registered Park and Garden lie further to the east, beyond existing woodland. There are also some Grade II listed buildings which lie within Bishops Tachbrook to the south of the site. The Bishops Tachbrook Conservation Area boundary lies to the south of the site, approximately 30 metres from the southern most part of the site.

As noted above, the application site, notably the section closest to the Conservation Area has outline planning permission for use as a Country Park. At the very southern tip of the Country Park, allotments, community orchard and modest parking area are proposed. These elements would still retain soft landscaped views of the Country Park from the Conservation Area and in any event, views from public vantage points of these areas would be screened using soft landscaping.

The nearby listed buildings are considered to be sufficiently separated from the proposals such that it would not have a harmful impact on their settings. Oakley Wood Road and the screening along it creates a substantial buffer between the listed buildings and development proposed on the other side of the highway.

The Conservation Officer has been consulted on the proposal and has no objection to the proposed development. They do not consider that the development has an adverse impact on any designated heritage assets or their setting. Officers agree with these conclusions.

It is therefore considered that the proposal would be in accordance with the requirements of the NPPF and Local Plan policy HE1.

Archaeological Impact

WCC Archaeology have assessed the application. Previous archaeological trial trenching across parts of the western portions of the application site has established that the proposed development across those parts of the site is unlikely to have a further archaeological impact. There are, however, parts of the eastern portion of the application site which have not yet been archaeologically

examined and have a potential to contain archaeological features which may be disturbed by this proposal.

Archaeological trial trenching has been undertaken across the future school site and Oakley Grove Phase 3 residential development site, to the immediate east of the application site. This was preceded by an archaeological geophysical survey which also examined part of this application site. The trial trenching identified a brick kiln and a dump of fired material in the northern portion of the site, and a number of features which were interpreted as being related to an area of possible medieval settlement and/or features relating to historic gardens shown on a map of 1710 which were associated with Tachbrook Mallory House (also known as the Grove), which lies to the east of the application site. Further features of mid Iron Age date were also identified.

Archaeological excavation across the Oakley Grove Phase 3 residential development area has since examined the area containing kilns in more detail. It identified a number of brick kilns which were constructed and adapted at different times. One appears to have been adapted/extended to form a lime kiln at a later date.

Ongoing fieldwork across the future school site has identified a series of quarry pits which are likely to be associated with the kilns to the north. It has further identified a series of features which are likely to be associated with the gardens shown on the historic maps as well as earlier, medieval, features. A series of further features which are not presently dated, but appear to pre-date the medieval features, may be associated with the prehistoric activity identified in the earlier phase of evaluation.

Historic maps show that original line of the Oakley Wood Road used to cross the southern portion of the application site before it was diverted to its present line.

There is a potential for further archaeological features dating from the prehistoric periods onwards to survive across this site, and be impacted by the proposed development. In conclusion WCC Archaeology consider that some archaeological work should be required if consent is forthcoming. This should take a phased approach, the first phase of which would comprise an archaeological evaluation. This archaeological work can be secured by an appropriately worded condition, which has been added.

The development is therefore considered to be in accordance with Local Plan policy HE4.

Impact on Landscape

Policy BT1 of the Neighbourhood Plan states that development should conserve or enhance the area's landscape character to enhance the sense of place and history, and to provide recreational opportunities within tranquil settings. Development should protect the historic character and settlement pattern of the area, including maintaining individual farmsteads. The network of water features along the Tach Brook and other streams and ponds should be retained. Water features, woodlands and hedgerows should be protected and planting new hedgerows is encouraged.

The policy also supports the improvement and creation of new public rights of way and requires the provision of a Landscape Value Impact Assessment where necessary and states that where impacts are identified, measures should be incorporated to reduce their impact. Urban forms of development should be screened and have appropriate transitions to rural areas. New coverts and tree belts are supported in appropriate locations.

Members of the public have objected to the proposed development on the grounds that the proposal would have a detrimental impact on the character of the area and rural landscape; the overdevelopment of a small strip of land; there being too much tarmac rather than natural pathways; they state it would not be a park, and is more a strip of land.

As stated above, the site is allocated in the Local Plan in its entirety as a Country Park. A Country Park is natural area, designed for people to visit and enjoy recreation in a countryside environment. It is usual to expect some formal facilities, such as cafe, paths and trails.

The proposal includes paths which lead from the very northern tip of the park to the south. There are also ancillary paths which branch off towards the residential areas to provide access. The number and extent of paths are not considered excessive in this regard. The provision of the allotments and community orchards encourages additional use of this community facility. The orchards will sit comfortably within the wider context, whilst the allotments will be sufficiently screened as not to detrimentally impact on the setting of the Country Park.

The SUDs features will provide landscape features which will enhance the environmental quality of the area, and provide attractive features for members of the public to enjoy. These are seen as sensitive, appropriate features within a Country Park.

Initially, WCC Landscape raised concerns about the allotments being located within the Country Park and their locations. The applicant responded to this, stating that as part of granting planning permission for several of the recently consented residential developments adjacent to the proposed Country Park, landowners have entered into a S106 Agreements to make a financial contribution towards the construction of allotments within the Country Park to meet the need of new residents.

The applicant advised that the number of allotments to be provided and their exact locations were discussed with the Council's Greenspace Team and other stakeholders. What is proposed is the outcome of these discussions with the location considered to be the most appropriate having regard to the needs of future users and other considerations, including the need to safeguard the amenity of adjacent residents. On this basis, WCC Landscape accept the locations of the allotments.

WCC Landscape also raised queries regarding a lack of woodland around the south of the site. There is a modest strip of planting which will be located to the

southern most boarder of the Country Park, along with larger areas of orchard planting. WCC Landscape note that woodland is proposed as part of the Oakley Grove School application, which they would wish to see controlled. This however cannot be controlled as part of the current application.

WCC Landscape requested that the SUDs ponds were designed to look more naturalistic, and stated that they should not be fenced off. The applicant has confirmed that the SUDs ponds will not be fenced off and have enhanced planting around the SUDs to address these comments.

WCC Landscape requested additional woodland in the central area of the Country Park. The applicant responded to this, stating that the provision of woodland in this location conflicts with WCC Ecology's comment concerning the reduction in grassland. As such, the landscape design has sought strike a balance and not compromise passive oversight. This has been accepted by WCC Landscape.

WCC Landscape have made various requests regarding the planting species mix, most of which have been accommodated by the applicant. There are a small number of queries in this regard which remain outstanding and are currently being addressed by the applicant. Councillors will be updated on this matter prior to the committee meeting.

The Council's Green Spaces Team stated that they welcome the application and note that the proposed furniture details (eg bins and benches) will complement the feel of the Country Park. They raised various minor points within their comments and the applicant has submitted additional information which seeks to address all of the points set out within the Green Spaces response. The applicant has however noted that in respect of the suggestion to change the surface of the Severn Trent Water access track from tarmac to grasscrete or similar, this cannot be made as tarmac is required due to loading requirements. The Green Spaces Team have been reconsulted and Councillors will be updated on this matter prior to the committee meeting.

The proposed development is considered to bring forwards a Country Park, the use of which is allocated within the Neighbourhood Plan, with a variety of suitable features which will enhance the landscape character. Views from nearby residential properties will be of an open, countryside landscape, with enhanced areas of woodland and water features. The more built up elements of the scheme such as the allotments and car parks will be suitably screened from wider views and as such will not have a harmful impact on landscape character. The additional planting around the perimeters of the site will ensure that long range views of the site blend well with the surrounding countryside.

The proposal is therefore considered to be in accordance with the aforementioned policies.

Highway Safety, Traffic Generation and Parking

Neighbourhood Plan policy BT4 states that appropriate measures will be implemented as part of new development to mitigate the impact on traffic on

road safety and health. It suggests traffic calming measures along Oakley Wood Road, which runs next to the site.

Members of the public have stated that the northern car parking area should be made larger and the southern one removed / made smaller. Members of the public suggest that the proposal will lead to parking on nearby streets. The Parish Council have stated that original plans did not include parking in the southern area - they consider that it will encourage people to use the car rather than walk at the expense of walking and cycling, leading to more traffic problems in the village.

WCC Highways were consulted on the proposal. They note that the application is supported by a Transport Statement which considers the impact of development related traffic on the local Highway Network. The Transport Statement has been reviewed and the Highway Authority considers the content acceptable and demonstrates that the proposal will not have a severe impact on the safety or capacity of the network in the immediate vicinity.

There is no set requirement within the Council's Vehicle Parking Standards for a Country Park. The proposal includes two modest car parking areas to the north and south of the area, predominantly to serve the allotment areas, providing 36 spaces in total. This number of spaces has been provided on the basis of the projected vehicular trips to the site and are proposed to be used by visitors to the Country Park as well as people using the allotments. However, as the purpose of the Country Park is to serve the adjacent local residents as part of the South Leamington urban extension and provide off-road connectivity, it is expected that the majority of users would walk or cycle to the Country Park. It is not considered that a car park of 16 spaces to the south would disproportionately encourage use of the car to access the site, given the connectivity to nearby residential areas.

Officers agree that the Country Park is intended to serve the local communities of the south of Leamington and Bishops Tachbrook, therefore a modest parking requirement for the site would be appropriate. In order to ensure that any additional parking demands are accommodated, it is intended that the proposed 'Oakley Grove' School will provide additional parking capacity and this is covered by the legal agreement attached to the outline Planning Permission for that proposal (W/19/1030). The Highway Authority is therefore satisfied that there will be sufficient parking provision available. The accesses to the car park areas, along with the accesses for maintenance vehicles will need to be constructed to a suitable specification. A condition has been added to control this.

The Walking and Cycling Officer has reviewed the proposals and is satisfied that the provisions within the application site for walking and cycling are acceptable, however, has raised the query over how unauthorised vehicular access can be prevented whilst maintaining connectivity for cyclists. This can however be controlled by condition, which has been added.

Regarding members of the public comments, whilst these are noted, Officers consider there to be no material planning reason to require changes to the car parking provision as proposed.

Members of the public suggest that the speed limit along Oakley Wood Road should be reduced. However, WCC Highways have not suggested that the development is likely to have a detrimental impact on highway and the traffic generation associated with the proposal is not likely to be significant.

The proposal is therefore considered to be in accordance with Local Plan policies TR1, TR2 and TR3.

Trees

The submitted information confirms that two category U trees would be removed. Two groups of trees and one area of hedgerow would also be removed. There would be some minor alterations to other hedges to facilitate the introduction of pathways. It should be noted that there would also be extensive tree planting as part of the proposal, including new areas of native woodland.

The Council's Tree Officer was consulted on the proposal and states that the arboricultural information provided by the applicant was thorough and comprehensive, and on the basis of that information, he has no objections on tree-related grounds to the development as proposed. The Tree Officer notes that there are recommendations within the Arboricultural Impact Assessment for a comprehensive Arboricultural Method Statement where paths are to cross the root protection areas of retained trees, and in due course such a statement would be required, but that could comfortably be secured by condition. This has been added.

Comments have been raised that new trees planted along Peabody Way should be oak. The applicant has stated that tree species along Peabody Way were agreed with the Greenspace Team to be a row of Downy Birches. Oak saplings in this location adjacent to a main road could cause highways issues in the future due to their large canopy spread and expansive root system. Officers have no reason to dispute this.

The Parish Council queried whether the community orchards can accommodate the proposed number of trees and maintenance of them. The applicant has responded stating that the extent of food growing areas was defined within the S106 Agreements with the nearby housing sites, and a balance has been struck between providing more formal allotments and open community orchards. The orchards design and layout has been based on a traditional grid pattern with minimum spacings of 8m between each orchard tree species to allow for sufficient sun and soil depth and to avoid competition from adjacent tree species. The applicant states that based on this accepted planting regime for orchards there is considered to be adequate space to accommodate the number of trees proposed in the planning application. Given that the Tree Officer has raised no concerns on these grounds, Officers are comfortable with this aspect of the proposal.

In view of the above including the extent of new tree planting proposed, Officers consider the proposal to be acceptable in that regard.

Ecological Impact

Local Plan policy NE2 requires that designated areas and species of national and local importance for biodiversity and geodiversity must be protected. Policy NE3 requires that new development must protect, enhance and / or restores habitat biodiversity.

Some members of the public suggest that the proposal would have a detrimental impact on wildlife, whereas others suggest that there would be wildlife enhancements. Queries are raised regarding the impact of the development on skylarks.

WCC Ecology have assessed the application. They confirm that they have no objection to the application, subject to conditions. WCC Ecology note that one of the purposes of the Country Park is for its nature conservation value. As such the application is considered to support the NPPF (2022) paragraph 180 (d) which states:

"development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate."

However in order to secure favourable management of the park and safeguard protected species and habitats, as outlined in the Ecological Impact Assessment and the landscape plans, WCC Ecology recommend that conditions for submission of a Construction and Environmental Management Plan (CEMP) and a Landscape Ecological Management Plan (LEMP) are attached to any approval granted. The LEMP will need to include management details (for at least 30 years), the organisation/body responsible for management, monitoring of habitats and species, and details of funding to deliver the long-term management. This is considered to address concerns identified by the Warwickshire Wildlife Trust on the management between new features and the impacts on the natural environment. The LEMP will also be used to ensure that the biodiversity net gain is monitored and achieved.

In regards to the impact on biodiversity, WCC Ecology have reviewed the submitted Biodiversity Impact Assessment (BIA) and associated biodiversity net gain technical note. The BIA is generally acceptable but they requested that the calculation should be based on the original baseline habitat of arable rather than semi-improved grassland. This is being updated by the applicant, which will be reviewed before the planning committee meeting. Councillors will be updated prior to the meeting on this matter, however it is likely that the BIA will show an increased net gain in the number of units as a result of the development than that already identified.

Notwithstanding the aforementioned point of clarification, WCC Ecology calculations show that the country park would provide a net gain of 7.27 units in combination with the offset agreements set out in the Section 106 agreements which have been agreed for the adjacent developments. As such the Country Park will provide an overall biodiversity net gain for the developments in the area if implemented as per the submitted landscape plans, and has therefore succeeded in its purpose to ensure biodiversity net gain in achieved.

WCC Ecology also note that the development includes enhancements to the Tach Brook which will be secured by the LEMP. They also note the presence of a number of protected species within the site, and that these can be adequately protected via the CEMP.

WCC Ecology requested additional information regarding nesting birds and skylarks. The applicant has responded stating that the neighbouring housing developments were required under Section 106 agreements to make contributions for skylark mitigation attached to their individual planning permissions. It was understood that the funding would be used elsewhere by the County Council as it was deemed at the time that the country park would not be a suitable location for skylark mitigation. Notwithstanding this, it is also noted that the design of the site includes areas of low disturbance/no access which has the potential to continue to support breeding skylarks. This information has been sent to WCC Ecology for consideration and Councillors will be updated on this matter prior to the committee meeting.

WCC Ecology had some queries regarding the proposed landscaping plans, mix of species proposed and practical impacts of the development on habitats. A response to these queries has been provided and is being reviewed by WCC Ecology. Councillors will also be updated on this matter prior to the committee meeting.

WCC Ecology also request a condition for a lighting scheme, which has been added. This is considered to address comments from the Warwickshire Wildlife Trust on this matter.

The Warwickshire Wildlife Trust stated that there is potential for short term impacts and the change in use of the site to a country park will eventually result in increased levels of human disturbance and noise through increased recreation. However, the use of the site is allocated and acceptable in principle. Subject to the mitigation and protection measures outlined above, there would be suitable safeguarding of protected species and a significant net increase in biodiversity as a result of the development.

Subject to WCC Ecology confirming that the additional details regarding nesting birds and the biodiversity impact assessment are acceptable, the proposal is considered to comply with Local Plan policies NE2 and NE3.

Air Quality

The applicant has undertaken a review of Warwick District Council's AQ SPD alongside the details of the proposed scheme and has concluded that the scheme does not meet the criteria for a Major scheme and therefore an Air Quality Assessment is not required. On this basis, under the guidance the development is classified as a medium scheme because it required a transport assessment, as such the developer is required to provide Type 1, & 2 mitigation from the guidance.

The Environmental Health Officer accepts this assessment and recommends a condition is imposed requiring the development to comply with WDC's AQ SPD prior to the park coming into use. This has been added and it is likely that the mitigation measures will take the form of electric vehicle charging points within the car parking areas. The details will be agreed with the Environmental Health Officer prior to their installation to ensure that they meet with the requirements of the SPD.

The proposal is therefore considered to be in accordance with Local Plan policy NE5 and relevant SPD.

Drainage and Flood Risk

The site is predominantly greenfield and covers an area of approximately 48.9ha. The Environment Agency (EA) Flood Map for Planning indicates that the site intersects Flood Zones 2 and 3 associated with the Tach Brook, which forms the southern boundary of the site.

Members of the public state that there are concerns regarding the proposed wooden footbridge and land on the south side which regularly floods, so is unsuitable for pathways or access on safety grounds; much of the areas are prone to flooding and will be unusable even with walkways and members of the public query how will this be mitigated.

The submitted Flood Risk Assessment (FRA) informs that the most significant source of flooding to the site is from fluvial flooding associated with the Tach Brook. The majority of the site is located in Flood Zone 1 where there is the lowest risk of flooding, including all flood sensitive elements of the proposals. Elements of the development that intersect Flood Zone 2 and Flood Zone 3 are considered to be insensitive to flooding (i.e. footpaths and boardwalks).

The proposed development will result in no significant land raising in areas of the site in Flood Zones 2 and 3 (fluvial flooding), or at Low, Medium or High risk of surface water flooding, and hence there will be no loss of floodplain storage or impediment to flow. Development close to the Tach Brook will be limited to two small single-span pedestrian footbridges, to be built in accordance with standard design principles to minimise the risk of blockage and flow displacement above existing. Numerous minor river enhancement options are proposed to the Tach Brook, though these are anticipated to have negligible impact to flood risk given the nature of the proposals.

The FRA also states that surface water flood risk is typically Very Low across the majority of the site (based on the Environment Agency Risk of Flooding from Surface Water mapping), with regions of more significant risk mapped across several minor tributaries and drains flowing southwest into the Tach Brook. A minor portion of the proposed refreshment centre intersects a region of low surface water flood risk associated with a drainage channel draining to the Tach Brook. However, it is anticipated that localised ground reprofiling would be sufficient to minimise any significant risk to the development, to ensure flood sensitive elements of the development are slightly raised above adjacent low points and associated surface water flowpaths passing through the landscaped areas of the proposed country park.

Surface water from the proposed footpaths will drain into the permeable ground nearby, and the car parks will be provided with gravel filled filter trenches which lead to existing pumping stations.

The LLFA were consulted and initially noted that insufficient information had been submitted in order to assess the impacts of the development on surface water drainage. Additional details have been provided by the applicant on this matter, which is with the LLFA for consideration. Councillors will be updated on this matter prior to the committee meeting.

The applicant has confirmed that the timber bridge links have been designed to have no impact on river levels or flooding, using natural materials. They note that whilst there is an awareness that there is seasonal flooding in this area, the permissive route is being provided as a temporary solution until the Severn Trent Water land parcel comes forward. As such, the path will remain unsurfaced. In the long term, the Severn Trent Water portion of land will be reprofiled to provide a DDA compatible path, ensuring optimum accessibility from east to west of the country park.

The Environment Agency have stated that they have no comment to make on the application and recommend consultation with the LLFA.

Subject to the LLFA having no objection to the proposal following the submission of additional details on surface water drainage, the proposals are considered to be acceptable in terms of flood risk and drainage. The development is considered to be in accordance with Local Plan policies FW1 and FW2.

Contaminated Land

Concern has been raised by members of the public regarding contaminated land within the site.

Environmental Protection have assessed the application and note that the applicant has completed a Phase 1 Contaminated Land Desk Study which makes recommendations for further investigation, which they agreed with. A ground investigation report and risk assessment of the site was then provided by the applicant which the Environmental Health Officer has confirmed is acceptable,

and no further information is required in this regard as no risks of contamination have been identified.

However, further investigation of the Severn Trent Water land parcel within the site is required, specifically the sludge tip mound, its current risk and post remediation risk to controlled waters. A Remediation Method Statement for the site, including the sludge tip, will need to be agreed prior to commencement of the development. A condition has been added to require the provision of the aforementioned information prior to commencement of development or use of the Severn Trent Water land.

It is therefore considered that the development adequately addresses matters regarding contaminated land.

Sustainability

Neighbourhood Plan policy BT12 states that development proposals should incorporate features that contribute towards reducing greenhouse gas emissions and increasing resilience to the impact of climate change. All new buildings should be designed to be carbon neutral.

The proposed refreshment centre represents a new building. A condition will be added to ensure compliance with the requirements of Neighbourhood Plan policy BT12. This is also considered to address the requirements of Local Plan policy CC1 regarding adapting to climate change.

Other Matters

Designing Out Crime

WCC Police have been consulted and have commented that the proposal references the advice contained within National Planning Policy Framework, Planning Practice Guidance, 'Safer Places - The Planning System and Crime Prevention' and 'Crowded Places. They have no concerns regarding the location of the site in general therefore Warwickshire Police have no objection to the application.

Warwickshire Police however note that they have concerns regarding the security of the proposed café building. They state that this clearly is going to be an isolated premises and it could become the target for crime, in particular burglary. They note that there is a lack of information in the planning statement of the design and access statement regarding how it is intended to protect this building. WCC Police also note the desire for this site to be an attractive area for wildlife and therefore the proposal for no lighting. They conclude that this building could also become a place that attracts gathering of youths at night and in turn it could become an area where anti-social behaviour is an issue.

Warwickshire Police make various recommendations regarding the safety mechanisms which should be put in place in order to protect the building and deter anti-social behaviour. A condition has been added which requires that the

applicant demonstrates how the cafe will be designed to minimise the potential for crime and anti-social behaviour, in accordance with the requirements of Local Plan policy HS7. It should also be noted that the refreshment centre is submitted in outline form, therefore the design details associated with this will come forwards at a later stage and will be informed by the aforementioned condition.

Members of the public have stated that the hedging planned to screen off the allotments on one side of the Country Park and the orchard trees planned on the other side will make the narrow footpath at the southern most corner feel closed in, dark, shadowed and unsafe. They state that this not only negates the open field, open space feeling of the country park, but also disproportionately affects women who are more likely to be nervous of walking on their own due to recent and historical incidences of attacks on lone women. The Parish Council also raise some concerns regarding the safety of this area.

In response, the applicant has reduced the extent of some of the proposed hedgerow to reduce the sense of enclosure. The applicant advises that hedgerow in other areas will be managed and tree canopies thinned where necessary to enhance natural surveillance. Officers also note that this area is nearby to one of the parking area and allotments, where there is more natural surveillance than other areas and would still provide a 10m wide space. Moreover, Warwickshire Police have not identified this as a concern, therefore no additional information is required in this regard.

Littering

Members of the public have suggested that the refreshment centre will cause littering. However, various waste bins are located throughout the site and Officers have no reason to conclude that this would be a significant issue which weighs against the application.

Consultation

Members of the public make various comments regarding the consultation process before the planning application was submitted. However, there is no statutory requirement to undertake consultation prior to the submission of an application. With that said, Officers understand that a community consultation exercise on the scheme was undertaken by the applicant for three months in 2020 which attracted a number of responses. Full consultation was undertaken as part of this planning application.

Management

Various queries have been raised about the ongoing maintenance of the Country Park. This in part will be dealt with by the LEMP, but will be the responsibility of the land owner, in this instance Warwick District Council. Officers have no reason to believe that the site would not be adequately managed moving forwards. A member of the public queries how will windfall fruit be managed to avoid the area becoming overrun with rats and odours. This would be a private matter for the landowner to consider.

Accessibility

Members of the public have commented that because of the steep gradients of the Country Park it seems as though the northern and southern parts will not be accessible between each other until the Severn Trent planning permission is agreed, preventing full accessibility for all residents. It is considered that a disability friendly temporary access (until the Severn Trent permanent solution is enacted) must be guaranteed as part of this planning permission.

The applicant has advised that the Country Park includes 3m wide tarmac footpath/cycle routes around the park. The use of self-binding gravel paths as well as tarmac paths is to ensure that the Country Park does not have an 'urban' feel and balance the visual appeal of a Country Park whilst ensuring that it is accessible to all. Self-binding gravel still allows accessibility as it produces a firm/compact surface with non-slip properties.

In terms of linking between the northern and southern portions of the site - the permissive route is being provided as a temporary solution until the Severn Trent land parcel comes forward. As such, the path will remain unsurfaced and would not be fully accessible. In the long term, the Severn Trent Water portion of land will be reprofiled to provide a DDA compatible path, ensuring optimum accessibility from each end of the Country Park. Officers agree that at present it is not feasible to provide full accessibility across the site owing to the typography of the land, nor is it reasonable to require that a temporary path is made permanent and DDA compliant. This is a temporary solution to overcome the issue of land ownership, which will allow the Country Park to come forwards for use. It should also be noted that the Park is accessible from the north and south separately. It is considered that the benefits of the Country Park coming forwards outweigh the harm of not having whole site accessible on temporary basis.

The applicant also advises that the site naturally slopes towards the river, due to its valley location. Unfortunately, it is not feasible to make all paths accessible in terms of required gradient, but routes have been designed to minimise steep inclines wherever possible. The 3m wide tarmac path is under 1:12 gradient at all points and stretches from one end of the park to the other, with linkages to the new housing areas throughout.

Members of the public have raised that there is a lack of changing place facility to ensure that toilets are fully accessible.

The applicant has advised that there is no local policy or statutory requirement to provide 'Changing Places' designed accessible toilets within a scheme of the type and scale proposed under this planning application. The applicant is, however, investigating how such a facility might be included within the proposed refreshment centre, the details for which would be secured by Building Regulations.

Members of the public have queried whether play equipment be fully accessible.

The applicant has advised that the play equipment will accommodate accessible items for children of all ages and abilities, including those with disabilities. A condition will be added to confirm the exact details of play equipment to be provided.

Other Matters

A query has been raised by a member of the public as to why a domestic grade kitchen will be installed in a commercial refreshment centre. They consider that this saves money in the short term but will end up needing to be replaced much more quickly, which is contrary to Warwick District Council's green policies. This issue is acknowledged however, is not a material planning consideration in the determination of this application.

Members of the public make comments about the Council tax banding. However, this is not a material planning consideration.

Queries were raised whether horses will be allowed to access the site and who will empty dog poo bins. These are not material planning considerations.

Members of the public have made comments in reference to the nearby school development and that this should be constructed on flat land. However, this is not relevant to the assessment of this application.

The Parish Council and members of the public note the benefits of the scheme, suggesting that it will provide open space, cycle paths, walkways to boost mental and general health of residents, noting that the site is allocated for the proposed use in the Local and Neighbourhood Plans. They also consider that it provides physical links connecting community and amenities of Bishops Tachbrook with the park. These are all notable benefits of the scheme.

Members of the public also suggest that the refreshment centre will provide a venue for people to meet and enjoy the open space together. In particular, the parents of younger children attending nursery and primary school, who will form long-standing friendships that will help to build and strengthen the community. It is also considered that the country park will link through to other green corridors designated in the Local Plan, allowing residents to walk or cycle along safe, car free routes to Warwick and Leamington. Bishops Tachbrook Parish Council also suggest similar benefits of the scheme. These are all noted as material benefits.

Conclusion

The proposed development would bring forwards the delivery of a key piece of green infrastructure identified with the Neighbourhood and Local Plans. In doing so it would provide significant material benefits, namely enhancements to biodiversity, green infrastructure links which assist health and wellbeing and the provision of community facilities such as orchards and allotments. It is therefore recommended that the application is approved.

Subject to conditions, the development can also be controlled to manage any impacts on neighbours, nearby highways and drainage.

CONDITIONS

- 1 The development hereby permitted in detail (all of the development save for the 'refreshment centre') must be begun not later than the expiration of three years from the date of this permission.

The development hereby permitted in outline (the refreshment centre) must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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

- 2 The refreshment centre is granted under the provisions of Article 4(1) of the Town and Country Planning (Development Management Procedure) Order 2015 as amended, on an outline application and the further approval of the District Planning Authority shall be required to the undermentioned matters hereby reserved before any development is commenced on each subsequent phase of development:-

- appearance
 - (a) landscaping
 - (b) layout
 - (c) scale

REASON: To comply with Article 4(1) of the Town and Country Planning (Development Management Procedure) Order 2015 (as amended).

- 3 In the case of the reserved matters specified above, application for approval, accompanied by all detailed drawings and particulars must be made to the Local Planning Authority, for each phase of the development, not later than the expiration of three years beginning with the date of this permission.

REASON: To comply with Section 92 of the Town and Country Planning Act 1990 (as amended).

- 4 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawings:

807055-WOOD-XX-XX-DR-L-00001 (Masterplan), 807055-WOOD-XX-XX-DR-L-00029 (Post and Wire Fence), 807055-WOOD-XX-XX-DR-L-00030 (Bench), 807055-WOOD-XX-XX-DR-L-00031 (Timber Bollard), 807055-WOOD-XX-XX-DR-L-00032 (Timber Bridge), 807055-WOOD-XX-XX-DR-L-00033 (3m Tarmac Path), 807055-WOOD-XX-XX-DR-L-00034 (Self-Binding Gravel Path), 807055-WOOD-XX-XX-DR-L-00036 (Picnic Bench), 807055-WOOD-XX-XX-DR-L-00037 (Timber Vehicle Gate), 807055-WOOD-XX-XX-DR-L-00038 (Vehicle Barrier), 807055-WOOD-XX-XX-DR-L-00039 (Post and Rail Fence), 807055-WOOD-XX-XX-DR-L-00040 (Waste Bins), 807055-WOOD-XX-XX-DR-L-00041 (Timber Boardwalk), 807055-WOOD-XX-XX-DR-L-00043 (Timber Knee Rail), 'Southern Car Park Access General Arrangement' and 'Maintenance Access of Peabody Way - dropped kerb' submitted on 15th March 2022; and,

807055-WOOD-XX-XX-DR-L-00002 P02 (Landscape Plans Sheet 1), 807055-WOOD-XX-XX-DR-L-00003 P03 (Landscape Plans Sheet 2), 807055-WOOD-XX-XX-DR-L-00004 P02 (Landscape Plans Sheet 3), 807055-WOOD-XX-XX-DR-L-00005 P02 (Landscape Plans Sheet 4), 807055-WOOD-XX-XX-DR-L-00006 P02 (Landscape Plans Sheet 5), 807055-WOOD-XX-XX-DR-L-00007 P02 (Landscape Plans Sheet 6), 807055-WOOD-XX-XX-DR-L-00008 P02 (Landscape Plans Sheet 7), 807055-WOOD-XX-XX-DR-L-00009 P02 (Landscape Plans Sheet 8), 807055-WOOD-XX-XX-DR-L-00010 P02 (Landscape Plans Sheet 9), 807055-WOOD-XX-XX-DR-L-00011 P02 (Landscape Plans Sheet 10), 807055-WOOD-XX-XX-DR-L-00012 P02 (Landscape Plans Sheet 11), 807055-WOOD-XX-XX-DR-L-00013 P02 (Landscape Plans Sheet 12), 807055-WOOD-XX-XX-DR-L-00014 P02 (Landscape Plans Overview Sheet), 807055-WOOD-XX-XX-DR-L-00045 (SuDs Reference Drawings Sheet 1), and 807055-WOOD-XX-XX-DR-L-00046 (SuDs Reference Drawings Sheet 2) submitted on 6th October 2022; and

807055-WOOD-XX-XX-DR-L-00015 P02 (Planting Plans Sheet 1), 807055-WOOD-XX-XX-DR-L-00016 P02 (Planting Plans Sheet 2), 807055-WOOD-XX-XX-DR-L-00017 P02 (Planting Plans Sheet 3), 807055-WOOD-XX-XX-DR-L-00018 P02 (Planting Plans Sheet 4), 807055-WOOD-XX-XX-DR-L-00019 P02 (Planting Plans Sheet 5), 807055-WOOD-XX-XX-DR-L-00020 P02 (Planting Plans Sheet 6), 807055-WOOD-XX-XX-DR-L-00021 P02 (Planting Plans Sheet 7), 807055-WOOD-XX-XX-DR-L-00022 P02 (Planting Plans Sheet 8), 807055-WOOD-XX-XX-DR-L-00023 P02 (Planting Plan Sheet 9), 807055-WOOD-XX-XX-DR-L-00024 P02 (Planting Plans Sheet 10), 807055-WOOD-XX-XX-DR-L-00025 P02 (Planting Plan Sheet 11), 807055-WOOD-XX-XX-DR-L-00026 P02 (Planting Plan Sheet 12), 807055-WOOD-XX-XX-DR-L-00027 P02 (Planting Plans Overview), and 'Northern Access General Arrangement' submitted on 26th October 2022,

and the 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.

5 Each phase of the development hereby permitted shall not commence unless and until a Construction Management Plan (CMP) for that phase has been submitted to and approved in writing by the local planning authority. The CMP shall provide for:

(d) *Any temporary measures required to manage traffic during construction*

- *Plans and details of haul roads within the site and for the turning and unloading and loading of vehicles within the site during construction*
- *Dust management and suppression measures – level of mitigation determined using IAQM guidance*
- *Wheel washing*
- *Noise assessment and mitigation method statements for the construction activities; in accordance with provisions of BS 5228:2009 Code of practice for noise and vibration control on construction and open sites – Part 1 and 2*
- *Concrete crusher if required or alternative procedure*
- *Delivery times and site working hours*
- *Site lighting*
- *Access and protection arrangements around the site for pedestrians, cyclists and other road users*
- *Restrictions on burning and details of all temporary contractors buildings*
- *Plant and storage of materials associated with the development process*
- *External safety and information signing notices*
- *Complaints procedures, including complaints response procedures and dedicated points of contact*

A model CMP can be found on the Council's website (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.

6 No development for each phase shall take place until:

a) a Written Scheme of Investigation (WSI) for a programme of archaeological evaluative work has been submitted to and approved in writing by the Local Planning Authority for that phase.

b) the programme of archaeological evaluative fieldwork and associated post-excavation analysis and report production detailed within the approved WSI has been undertaken. A report detailing the results of this fieldwork, and confirmation of the arrangements for the deposition of the archaeological archive, has been submitted to the planning authority.

c) An Archaeological Mitigation Strategy document (including a Written Scheme of Investigation for any archaeological fieldwork proposed) has been submitted to and approved in writing by the Local Planning Authority. This should detail a strategy to mitigate the archaeological impact of the proposed development and should be informed by the results of the archaeological evaluation.

The development, and any archaeological fieldwork post-excavation analysis, publication of results and archive deposition detailed in the Mitigation Strategy document, shall be undertaken in accordance with the approved Mitigation Strategy document.

Reason: In order to ensure any remains of archaeological importance, which help to increase our understanding of the Districts historical development are recorded, preserved and protected where applicable, before development commences in accordance with Policy HE4 of the Warwick District Local Plan 2011-2029.

- 7 Each phase of the development hereby permitted shall not commence until a Construction and Environmental Management Plan (CEMP) in accordance with the British Standard on Biodiversity BS 42020:2013 has been submitted to and approved in writing by the District Planning Authority for that phase. In discharging this condition the Local Planning Authority expect to see details concerning pre-commencement checks for protected and notable species with subsequent mitigation and monitoring, as deemed appropriate. In addition, details of appropriate working practices and safeguards for habitats, such as the Local Wildlife Site, hedgerows and trees, to be employed whilst works are taking place on site. The compound area should be allocated and illustrated in a site layout within the plan. The agreed Construction and Environmental Management Plan shall thereafter be implemented in full.

Reason: To ensure that protected species are not harmed by the development, in accordance with the National Planning Policy Framework (NPPF), ODPM Circular 06/2005 and Policies NE2 and NE3 of the Warwick District Local Plan 2011-2029.

- 8 A landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the Local Authority prior to the commencement of the development (or specified phase of development). The content of the LEMP shall include the following:
- a.) Description and evaluation of features to be managed.
 - b.) Ecological trends and constraints on site that might influence management.
 - c.) Aims and objectives of management.
 - d.) Appropriate management options for achieving aims and objectives.

- e.) Prescriptions for management actions.
- f.) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g.) Details of the body or organisation responsible for implantation of the plan.
- h.) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (*where results from monitoring show that conservation aims and objectives of the LEMP are not being met*) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

REASON: To ensure a net biodiversity gain in accordance with NPPF.

- 9 Prior to the commencement of each phase of the development hereby approved (including all preparatory work), an Arboricultural Method Statement and Tree Protection Plan, together referred to as the scheme of protection, for the protection of the trees to be retained for that phase shall be submitted to and approved in writing by the Local Planning Authority.

The scheme of protection must be prepared in accordance with BS 5837:2012 Trees in relation to design, demolition and construction – Recommendations (referred to here as BS 5837) and shall refer to a retained tree’s root protection area (RPA as defined in BS 5837) and to any work that may affect a retained tree above-ground.

The scheme of protection should make recommendations for:

- a) tree pruning to allow the development to proceed (if appropriate)
- b) tree protection, to be shown on the Tree Protection Plan with offsets from fixed points to confirm the alignment of any protective fencing and the extent of any ground protection
- c) the specification for the construction of any hard surfacing that encroach over the RPA of a retained tree
- d) a site monitoring protocol that will confirm by independent examination by a suitably qualified tree specialist that the agreed scheme of protection is in place

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.

10 No development shall commence or be used for the approved purpose within the area identified as 'Severn Trent Water land' (hereafter STW site) as shown on drawing 807055-WOOD-XX-XX-DR-L-00045 submitted to the Local Planning Authority on 24th October 2022, unless and until the following components of a scheme to deal with the risks associated with contamination of the site have each been submitted to and approved, in writing, by the Local Planning Authority:

1.(a) A site investigation designed for the STW site using the information obtained from the desk-top study and any diagrammatical representations (conceptual model). This should be submitted to and approved in writing by the planning authority prior to that investigation being carried out. The investigation must be comprehensive enough to enable:

§ A risk assessment to be undertaken relating to human health

§ A risk assessment to be undertaken relating to groundwater and surface waters associated on and off site that may be affected

§ An appropriate gas risk assessment to be undertaken

§ Refinement of the conceptual model

§ The development of a method statement detailing the remediation requirements

(b) The site investigation has been undertaken in accordance with details approved by the planning authority and a risk assessment has been undertaken.

(c) A method statement detailing the remediation requirements, including measures to minimise the impact on ground and surface waters using the information obtained from the site investigation, has been submitted to the planning authority. The method statement shall include details of how the remediation works will be validated upon completion. This should be approved in writing by the planning authority prior to the remediation being carried out on the site.

2. All development of the STW site shall accord with the approved method statement.

3. If during development, contamination not previously identified, is found to be present at the STW site then no further development shall take place (unless otherwise agreed in writing with the planning authority for an addendum to the method statement).

This addendum to the method statement must detail how this unsuspected contamination shall be dealt with.

4. Upon completion of the remediation detailed in the method statement a report shall be submitted to the planning authority that provides verification that the required works regarding contamination have been carried out in accordance with the approved method statement. Post remediation sampling and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met. Future monitoring proposals and reporting shall also be detailed in the report.

Any changes to these components require the express consent of the District Planning Authority. The scheme shall be implemented strictly as approved.

Reason: To safeguard health, safety and the environment in accordance with Policies BE3 and NE5 of the Warwick District Local Plan 2011-2029.

- 11 A sustainability statement must be submitted to and approved in writing by the Local Planning Authority, prior to the submission of details pertaining to the reserved matters relating to the refreshment centre detailing how the development has been designed to incorporate features that contribute to reducing greenhouse gas emissions and increasing resilience to the impact of climate change. The statement should include consideration of the following (but not limited to):
- a. All new buildings should be designed to be carbon neutral;
 - b. Building and roof orientation maximise opportunities for harnessing solar energy for renewable energy generation and passive solar gain;
 - c. Heating systems are carbon neutral incorporating such technology as Ground/Air Source Heat pumps or community heating systems;
 - d. Water saving technology and waste water recycling are incorporated;
 - e. All properties have vehicle charging points;
 - f. Sustainable standards of resource consumption and recycling have been applied ensuring that there is an appropriate balance between innovation and respecting and harmonising with the local quality and character of the surrounding development;
 - g. Building for Life standards, or an equivalent assessment framework, have been met;
 - h. The vulnerability of the site, and the wider area to flooding, especially during extreme weather events, have been identified and mitigated for in the proposal's design;
 - i. The incorporation of buffer strips to protect streams, trees and hedgerow rooting zones;
 - j. Extensive tree planting and landscaping using native species to increase carbon sequestration and ensure biodiversity is connected to the plan;

k. Surfaces that increase groundwater infiltration and reduce run-off will be used.

The design of the refreshment centre submitted under reserved matters must demonstrate how the agreed sustainability measures have been incorporated into the design. **Reason:** To demonstrate how the development has been designed to respond to climate change and meet the requirements of Policy BT12 of the Bishops Tachbrook Neighbourhood Plan 2020 - 2029.

12 A crime prevention statement must be submitted to and approved in writing by the Local Planning Authority, prior to the submission of details pertaining to the reserved matters relating to the refreshment centre detailing how the development has been designed to minimise the potential for crime and anti-social behaviour. The statement should include consideration of the following (but not limited to):

- windows and doors should be protected by roller shutters that have been tested and certified to LPS1175 security rating 2 (minimum) and installed in accordance with the manufacturer's specifications. Roller shutters/grilles protecting windows should be tested and certified to LPS1175 security rating 2 (minimum) (Level 2) and installed in accordance with the manufacturer's specifications;
- all windows and should be Certificated (BSI Kitemark or similar) to PAS 24 'Specification for enhanced security performance of casement and tilt/ turn windows for domestic applications' or Loss Prevention Certification Board standard LPS 1175 Security Rating 2;
- a monitored CCTV system should be installed near to the location of the café building.

The design of the refreshment centre submitted under reserved matters must demonstrate how the agreed crime prevention measures have been incorporated into the design.

Reason: To minimise the potential for crime and anti-social behaviour in accordance with Policy HS7 of the Warwick District Local Plan 2011-2029.

13 A full quantitative noise assessment must be undertaken in accordance with the methodology provided in BS 4142: 2104+A1: 2019 (or any subsequent BS which supersede this guidance) and be submitted to and approved in writing by the Local Planning Authority, prior to the submission of details pertaining to the reserved matters relating to the refreshment centre. **Reason:** To ensure that the level of noise emanating from the building is confined to levels which would not cause unacceptable disturbance to the detriment of the amenities of the occupiers of nearby properties in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.

14 Prior to first use of the site by members of the public, details of access prevention measures to prohibit unauthorised access, but ensure

accessibility for pedestrians and cyclists must be submitted and agreed by the Local Planning Authority. **Reason:** In the interests of cyclist and pedestrian safety in accordance with policy TR1 of the Warwick District Local Plan 2011 - 2029.

- 15 There shall be no development above slab level unless and until a phasing scheme for the delivery of the approved hard and soft landscaping details has been submitted to and approved in writing by the Local Planning Authority. The phasing scheme must identify the separate phases of development and timescales for delivery of both hard and soft landscaping within each phase. The development shall be carried out in strict accordance with the approved phasing scheme. Any tree(s) or shrub(s) which within a period of five years from the completion a phase of 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 in accordance with Policies BE1, BE3 and NE4 of the Warwick District Local Plan 2011-2029.
- 16 Each phase of 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 for that phase. The approved scheme shall be retained and maintained as such at all times thereafter. **Reason:** To ensure mitigation against air quality impacts associated with the proposed development in accordance with Policy NE5 of the Warwick District Local Plan.
- 17 No lighting or illumination of any part of any building or the site for each phase shall be installed or operated unless and until a detailed lighting scheme for that phase has been submitted and agreed between the applicant and the local planning authority. In discharging this condition the District Planning Authority expects lighting to be restricted around trees and mature vegetation and to be kept to a minimum at night across the whole site in order to minimise impact on emerging and foraging bats and other nocturnal wildlife. This could be achieved in the following ways:
- 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: To ensure that protected species and habitats to be retained are not harmed by the development in accordance with National Planning Policy Framework, ODPM Circular 06/2005 and with Policy NE2 of the Warwick District Local Plan 2011-2029.

- 18 The accesses to the site for vehicles (including maintenance vehicles) shall not be used in connection with the development until they have been constructed and surfaced in accordance with details to be approved in writing by the Local Planning 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.
- 19 Each of the play areas / play trails shall not be installed unless and until details to include the scale, layout, design and materials of that play area / play trail 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.
- 20 The existing tree(s) and shrub(s) indicated on the approved plans to be retained shall not be cut down, grubbed out, topped, lopped or uprooted. Any tree(s) or shrub(s) removed, dying, or being severely damaged or diseased or becoming, in the opinion of the local planning authority, seriously damaged or defective, within five years from the substantial completion of development shall be replaced, [as soon as practicable/ within the next planting season] with tree(s) and shrub(s) of the same size and species as that originally planted. All 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 (excluding hard surfaces). **Reason:** To protect those landscape features which are of significant amenity value and which ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies BE1 and NE1 of the Warwick District Local Plan 2011-2029.
- 21 Noise arising from any plant or equipment (measured as LAeq,5 minutes), when measured one metre from the façade of any noise sensitive premises, shall not exceed the background noise level (measured as LA90,T). If the noise in question involves sounds containing a distinguishable, discrete, continuous tone (whine, screech, hiss, hum etc) or if there are discrete impulses (bangs, clicks, clatters, thumps etc.) or if the noise is irregular enough to attract attention, 5dB(A) shall be added to the measured level.

Reason: To protect the amenities of the occupiers of nearby properties in the locality in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.

22 Prior to first use of the hereby approved development a crime prevention statement must be submitted to and approved in writing by the Local Planning Authority detailing how the development has been designed to minimise the potential for crime and anti-social behaviour. The statement does not require reference to the 'refreshment centre', but should include consideration of the following (but not limited to):

- entrances to car parks should be protected by height restricted barriers that are permanently secured in place;
- entrances to footpaths should be made too narrow for any vehicle to gain access and should include barriers such as kissing gates to prevent the use of offroad motorcycles.

The approved crime prevention measures shall be installed in full prior to first use of the hereby approved development and shall be retained in perpetuity.

Reason: To minimise the potential for crime and anti-social behaviour in accordance with Policy HS7 of the Warwick District Local Plan 2011-2029.

Application No: [W 22 / 0703](#)

Town/Parish Council: Leamington Spa
Case Officer: Helena Obremski

Registration Date: 26/04/22
Expiry Date: 26/07/22

01926 456531 Helena.Obremski@warwickdc.gov.uk

Former Mothercare Unit, Leamington Shopping Park, Tachbrook Park Drive, Warwick, CV34 6RH

Variation of condition 2 (plan numbers) of application W/21/0179 to allow for amendments to the approved site plan, principally the inclusion of Armco barrier alongside the highway, addition of a substation and amendment to location of cycle storage. FOR Aldi Stores Limited

This application is being reported to Planning Committee because it is recommended that planning permission be granted subject to the completion of a legal agreement.

Recommendation

Planning Committee are recommended to GRANT planning permission, subject to the conditions listed in the report and the completion of a satisfactory Section 106 agreement.

Planning Committee are also recommended to delegate authority to the Head of Development Services to finalise the terms of the Section 106 agreement.

Should a satisfactory Section 106 agreement not have been completed by 9th December 2022 and there is no ongoing progress towards the satisfactory completion of the Section 106 Agreement, Planning Committee are recommended to delegate authority to the Head of Development Services to REFUSE planning permission on the grounds that the proposal makes inadequate provision in respect of the issues the subject of that agreement.

Relevant Planning History

W/21/0179 - planning permission granted for demolition of existing building and erection of a food retail store (Class E(a)) with associated car parking, servicing and landscaping, off Tachbrook Park Drive.

The Site and its Location

The application relates to a former redundant retail unit, which has been demolished following the grant of permission W/21/0179 for a new foodstore, located at an out of town shopping centre within Leamington Spa. The red line site plan also incorporates a modest area of parking currently used by the former Aldi foodstore to the east of the application site. The car parking area serving the

former application property was shared with another large retail unit, positioned to the north west of the application site, which is also owned by the applicant.

Whitnash and Heathcote are located further to the north, south and east of the application and the site is bound to the west by the extensive Leamington Shopping Park.

Details of the Development

The scheme remains the same as implemented permission W/21/0179 and seeks only to vary condition 2 to allow for amendments to the approved site plan, principally the inclusion of Armco barrier alongside the highway, addition of a substation and amendment to the location of a cycle store.

As the scheme remains largely the same as permission W/21/0179, therefore only the above amendments are considered below. Matters not relating to the proposed changes are not considered below.

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
- TR2 - Traffic generation
- TR3 - Parking
- NE5 - Protection of Natural Resources
- TCP1 - Protecting and Enhancing the Town Centres
- TC2 - Directing Retail Development
- FW2 - Sustainable Urban Drainage
- CC2 - Planning for Renewable Energy and Low Carbon Generation
- CC3 - Buildings Standards Requirements

Guidance Documents

- Parking Standards (Supplementary Planning Document- June 2018)
- Distance Separation (Supplementary Planning Guidance)
- The 45 Degree Guideline (Supplementary Planning Guidance)
- Air Quality & Planning Supplementary Planning Document (January 2019)

SUMMARY OF REPRESENTATIONS

Royal Leamington Spa Town Council: No objection, subject to no objection from WCC Highways.

County Councillor Chilvers: Objection:

- This amended application says the cycle storage has moved, but it still appears to be at the west side of the area, as in the original proposals - queries changes.
- The southern entrance for pedestrians and cyclists off the cycle way is very welcome, but requests clarification:
 - that pedestrians will be able to walk round the path behind the electric chargers and then across the depot entrance and not have to walk into the parking area?
 - why the Sheffield cycle hoops are in the proposed position - this will force cyclists to dismount, but they will still be a long way from the cycle store. To reach the cycle store cyclists are likely to want to cycle through the car park to get there. If you want cyclists to dismount there you need to provide cycle storage at this point. If you aren't going to do that please sign the cycle storage from this point and remove the hoops, or move the hoops to behind the car parking spaces to indicate that cyclists shouldn't cycle along this part of the path.

Environmental Protection: No objection, subject to condition.

Warwick Town Council: No comment.

WCC Highways: No objection, subject to condition.

Public Responses:

1 Objection: Currently the cycle route that is proposed next to the external plant is unsafe. On a daily basis cars are driving down the path which would link to this cycle path. This has been reported on a few occasions but still no measures have been put in place to rectify. As this would now create more pedestrian and cycle traffic it would be only a matter of time before someone is seriously hurt.

Assessment

The main considerations relevant to the assessment of this application are as follows:

- Design
- Highway Safety
- Impact on Amenity

Design

The proposal seeks to amend the site plan, to include a low level Armco barrier, to act as a vehicle restraint along the northern boundary of the site. This would sit immediately next to the public footpath. Owing to its low height and context of the site within a built up commercial area, this additional is not considered to have a harmful impact in design terms.

The inclusion of the substation and change in position of the cycle storage will have minimal impact on the street scene, owing to the set down nature of the site, from the context of public vantage points. Nevertheless a modest substation is not an unusual or out of keeping feature given the built up commercial nature of the area.

The proposal is therefore considered to be in accordance with Local Plan policy BE1.

Highway Safety

Initially, timber bollards were proposed as a vehicle constraint system; a system of this nature is required to ensure that in the event that vehicles loose control and travel towards the development, that they would not fall into the site as there is a significant change in levels between the highway and majority of the site. This is a necessary highway safety precaution.

WCC Highways had concerns that the timber bollards were not sufficient in protecting vehicular safety in the event of an accident as outlined above. Negotiations between the Highways Authority and applicant concluded that an Armco barrier which continues along the northern boundary of the site was necessary. This has been updated on the proposed plans and has replaced the timber bollards.

WCC Highways now have no objection to the proposed amendments, subject to a condition for the requirement of full details prior to the installation of the barrier. This has been added.

Councillor Chilvers has raised some concerns regarding the proposed changes, and queried whether pedestrians will be able to walk round the path behind the electric chargers and then across the depot entrance, so to not have to walk into the parking area. Councillor Chilvers also queried why the Sheffield cycle hoops are in the proposed position, which he considers which will force cyclists to dismount and walk to access the storage area.

The agent responded to these queries, stating that the footpath clear distance is sufficient to allow pedestrians to walk along the path behind the charging points and across the designated zebra crossing at the top of the loading bay ramp. The footpath clear width is no less than approx. 1.5m in this area.

The agent also noted that the Sheffield hoops are to slow cyclists to a safe speed upon entering the site where there will be a significant amount of pedestrian foot traffic, the intention being to minimise the risk of collision between customers. The hoops will be spaced at 1.2m to still maintain good access through for all users without cyclists needing to dismount.

A member of the public states that currently the cycle route that is proposed next to the external plant is unsafe. They state that on a daily basis cars are driving down the path which would link to this cycle path and that this has been

reported on a few occasions but still no measures have been put in place to rectify. They consider that this is likely to lead to an accident.

Given that WCC Highways have no objection to the proposed layout and the agent has sufficiently explained the changes, Officers consider these matters adequately addressed.

The development is therefore considered to be in accordance with Local Plan policies TR1 and TR3.

Impact on Amenity

The Environmental Health Officer was consulted and has no objection to the proposed changes, including the provision of the substation on the site.

It is therefore considered that the development is in accordance with Local Plan policy BE3.

Conclusion

The proposed amendments are modest changes to the wider scheme which would have an acceptable impact and are policy compliant. The application 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 drawings:

H20A40-P010 (floor plan), H20A40-P011 (roof plan), H20A40-P021 (elevations), H20A40-P030 (sections), H20A40-P040 (visuals), MEL-467-001-P3 (soft landscaping scheme), submitted on 29th January 2021, and

H20A40-P003 Rev H (site plan), submitted on 20th September 2022,

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.

- 2 The development hereby permitted shall not commence unless and until tree protection measures have been submitted to and approved in writing by the LPA and the approved measures have been put into place. The approved measures must remain in place for the duration of demolition and construction works. The proposals must refer to all the trees within the site as well as those highway trees on the approach that may be affected by the proposed demolition and re-development, and must include:

a] an arboricultural method statement and tree protection plan in accordance with British Standard BS 5837:2012 Trees in relation to design, demolition and construction – Recommendations, Clause 7 in particular

b] an arboricultural site monitoring protocol that will confirm to the local planning authority by independent examination that the agreed tree protection measures are in place for the duration of the development

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.

3 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 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) 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.

4 Prior to commencement of development, a Sustainability Statement including 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.
- a) 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.
- a) How proposals will de-carbonise major development.
- a) Details of the building envelope (including U/R values and air tightness).

- a) How the proposed materials respond in terms of embodied carbon.
- a) Consideration of how the potential for energy from decentralised, low carbon and renewable energy sources, including community-led initiatives can be maximised.
- a) 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,

The development shall not be 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 (2021).

- 5 Within six months of the first occupation of the development, a report shall be submitted to and approved in writing by the Local Planning Authority demonstrating that the energy efficiency measures detailed within the Stage 4 Carbon Assessment Synopsis and BREEAM GAP assessment have been implemented in full. These measures shall be retained as per the approved details or replaced with a betterment in energy efficiency terms. **Reason:** To deliver reductions in carbon dioxide emissions, building running costs, energy consumption and water use in accordance with the provisions of Policy CC3 in the Warwick District Local Plan 2011-2029.

- 6 No development, other than works of demolition, shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority in consultation with the LLFA. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall:

- Demonstrate that the surface water drainage system(s) are designed in accordance with 'The SuDS Manual', CIRIA Report C753.
- Demonstrate detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details of any attenuation system, and outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm

durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods.

- If discharging to a drainage system maintained/operated by other authorities (Environment Agency, internal drainage board, highway authority, sewerage undertaker, or Canals and River Trust), evidence of consultation and the acceptability of any discharge to their system should be presented for consideration.
- Provide plans and details showing the allowance for exceedance flow and overland flow routing, overland flow routing should look to reduce the impact of an exceedance event.

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.

7 No development shall be carried out above slab level unless and until a hard 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. **Reason:** 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.

8 Prior to the occupation of the development hereby permitted, the air quality mitigation measures outlined within the BWB technical note (Ref. ALS-BWB-VUT-ZZ-RP-G-0001_TN, Rev 2, dated 8th June 2021) shall be implemented in full. 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.

9 Within twelve months of the first occupation of the development hereby permitted, the applicant shall submit a Travel Plan to promote sustainable transport choices to the site for approval by the local planning authority in writing. The measures (and any variations) approved shall continue to be implemented at all times thereafter. **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.

- 10 No deliveries, waste collections or other noisy external activities likely to cause nuisance to nearby residents shall take place before 0700 hours or after 2100 hours on Monday to Saturday or before 0900 hours or after 1800 hours on Sundays. **Reason:** To protect the amenities of occupants of nearby properties in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.
- 11 Noise arising from any plant or equipment (measured as LAeq,5 minutes), when measured (or calculated to) one metre from the façade of any noise sensitive premises, shall not exceed the background noise level (measured as LA90,T). If the noise in question involves sounds containing a distinguishable, discrete, continuous tone (whine, screech, hiss, hum etc) or if there are discrete impulses (bangs, clicks, clatters, thumps etc.) or if the noise is irregular enough to attract attention, 5dB(A) shall be added to the measured level. **Reason:** To protect the amenities of the occupiers of nearby properties in the locality in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.
- 12 The use of the lighting for the approved development shall be carried out and operated only in full accordance with the external lighting report and specification document prepared by Building Management Technology (Ref. B3621 (79_E1461), Issue A, dated 11th January 2021) and lux plot drawing (Drawing No. 79_E1461-BMT-XX-XX-DR-E-0105-A3-P01). **Reason:** To ensure that any lighting is operated so as not to detrimentally affect the amenities of the occupiers of nearby properties in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.
- 13 No occupation and subsequent use of the development shall take place until a detailed maintenance plan is implemented and provided to the LPA giving details on how surface water systems shall be maintained and managed for the lifetime of the development. The name of the party responsible, including contact name and details shall be provided to the LPA within the maintenance plan. **Reason:** To ensure the future maintenance of the sustainable drainage structures.
- 14 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.

- 15 No development shall be carried out above slab level 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. **Reason:** 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.
- 16 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 safeguard health, safety and the environment in accordance with Policies BE3 and NE5 of the Warwick District Local Plan 2011-2029.
- 17 The development hereby permitted shall not be occupied until a scheme for the provision of adequate water supplies and fire hydrants necessary for firefighting purposes at the site, has been submitted to and approved in writing by the local Planning Authority. The approved scheme shall be implemented in full prior to occupation of any dwelling to the satisfaction of the Local Planning Authority. **Reason:** In the interests of Public Safety from fire and the protection of Emergency Fire Fighters.
- 18 The development hereby permitted shall be carried out in strict accordance with the approved soft landscaping scheme. 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 in accordance with Policies BE1, BE3 and NE4 of the Warwick District Local Plan 2011-2029.

- 19 The development hereby permitted shall be carried out to wholly accord with the detailed mitigation and enhancement measures as set out in the document 'Ecological Mitigation Strategy' (Revision B) prepared by Middlemarch Environmental Ltd. **Reason:** To ensure that protected species are not harmed by the development in accordance with the requirements of policy NE2 of Warwick District Local Plan 2011 - 2029. In order to discharge the condition above, a brief report from an ecologist following the bat and bird box installation must be submitted to and approved by the Local Planning Authority (with advice from WCC Ecological Services).
- 20 The development hereby permitted shall not be occupied unless and until the car parking and manoeuvring areas, and cycle parking areas indicated on the approved drawings have been provided and thereafter those areas shall be kept marked out and available for such use at all times. **Reason:** To ensure adequate off-street car parking and servicing facilities in the interests of both highway safety and visual / residential amenity in accordance with Policies BE1, BE3 and TR3 of the Warwick District Local Plan 2011-2029.
- 21 Within one calendar month of the granting of this permission, the Vehicle Restraint System indicated on submitted plan H20A40-P003 Rev H shall be installed in accordance with details to be submitted to and agreed by the Local Planning Authority in conjunction with Highway Authority's Structural Engineer. **Reason:** In the interests of highway safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.
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Planning Committee: 08 November 2022

Item Number: 8

Application No: [W 22 / 0892](#)

Town/Parish Council: Leamington Spa
Case Officer: Michael Rowson

01926 456645 michael.rowson@warwickdc.gov.uk

Registration Date: 08/06/22

Expiry Date: 03/08/22

28 Clarendon Square, Leamington Spa, CV32 5QX

Demolition of existing outbuildings and erection of a two-storey coach house fronting onto Trinity Street FOR Innocent Group Limited

This application is being presented to Planning Committee due to the number of support comments received and it is recommended for refusal.

RECOMMENDATION

Planning Committee is recommended to refuse planning permission for the reasons set out at the end of this report.

DETAILS OF THE DEVELOPMENT

The application proposes the subdivision of the existing garden and the erection of a three-bedroom, two storey mews style dwelling fronting Trinity Street, with a rear garden. The dwelling would attach to both neighbouring buildings to form a continuous terrace and would have a single storey element projecting at the rear.

THE SITE AND ITS LOCATION

28 Clarendon Square is a four storey Regency building in a terrace of similar buildings which has been subdivided into flats.

The subject site is the rear portion of the garden serving 28 Clarendon Square. The subject site contains a garage building which fronts onto Trinity Street (the original service road at the rear of the north side of Clarendon Square).

The site is within the Royal Leamington Spa Conservation Area and the host property, 28 Clarendon Square, is a Grade II listed building.

PLANNING HISTORY

W/22/0890 - Conversion of basement to a 2-bed apartment – Granted

W/22/0891/LB - Conversion of basement to a 2-bed apartment – Granted

Third Floor Flat, 28 Clarendon Square

W/22/0928 - Re-submission of W/18/0191: Retrospective change of use from dwellinghouse (Use class C3) to a 4 bedroom House in Multiple Occupation (HMO) (Use Class C4) - Currently under assessment

RELEVANT POLICIES

- National Planning Policy Framework
- Warwick District Local Plan 2011-2029
- DS5 - Presumption in Favour of Sustainable Development
- H0 - Housing
- H1 - Directing New Housing
- BE1 - Layout and Design
- BE3 - Amenity
- TR1 - Access and Choice
- TR3 - Parking
- CC1 - Planning for Climate Change Adaptation
- FW1 - Development in Areas at Risk of Flooding
- FW3 - Water Conservation
- HE1 - Protection of Statutory Heritage Assets
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- NE3 - Biodiversity
- NE4 - Landscape
- Guidance Documents
- Parking Standards (Supplementary Planning Document- June 2018)
- Residential Design Guide (Supplementary Planning Document- May 2018)
- Air Quality & Planning Supplementary Planning Document (January 2019)
- Royal Leamington Spa Neighbourhood Plan 2019-2029
- RLS1 - Housing Development Within the Royal Leamington Spa Urban Area
- RLS2 - Housing Design
- RLS3 - Conservation Area

SUMMARY OF REPRESENTATIONS

Royal Leamington Spa Town Council – No objection, subject to no objection from WDC Conservation.

Conservation Officer – No objection, subject to conditions.

WCC Highways Authority – No objection. If there are sufficient unallocated RPZ spaces within an acceptable walking distance, then a legal agreement / condition revoking future occupants from applying for parking permits will not be required.

WCC Ecology – No objection, subject to inclusion of notes.

Environmental Health – No objection, subject to conditions relating to land contamination investigation and adherence to the Council's construction guidelines.

Public Realm Officer (Waste Management) – No objections

WCC Archaeology – No objections

WCC Local Lead Flood Authority (LLFA) - Objection on grounds of inadequate Flood Risk Assessment.

Public Response -

Two objections received on the following grounds:

- Loss of light to the lounge of the neighbouring property.
- Parking concerns and concerns regarding the Parking Survey.
- The proposal does not mention other developments at the same address which will impact parking and residential amenity.

17 support comments received on the following grounds:

- The proposal re-uses a currently unused space.
- Additional housing within Leamington town centre.
- Positive impact on the listed building.
- Enhancement of the streetscene.
- The proposal is sympathetic to the listed building

ASSESSMENT

Principle of development

Policy H1 of the Warwick District Local Plan 2011-2029 sets out where in the district new housing development will be permitted. H1a) allows such development within the Urban Areas, as identified on the Policies Map. The policy further states that housing development on garden land, in urban areas, will not be permitted unless the development reinforces, or harmonises with, the established character of the street and/or locality and respects surrounding buildings in terms of scale, height, form and massing.

Policy RLS1 of the Royal Leamington Spa Neighbourhood Development Plan (RLSNDP) states that proposals for new housing development within the Urban Area will be supported for (*inter alia*) infill development that is of an appropriate scale and that does not lead to the loss of residential gardens (unless in accordance with Policy H1 of the Warwick District Local Plan), overdevelopment, or have a significant adverse impact on the amenity of adjacent existing occupiers and uses.

The application site is within the Urban Area of Royal Leamington Spa and presently forms part of the garden land to the rear of 28 Clarendon Square. The proposal seeks to erect a single dwelling to the rear of the site such that it would front directly onto Trinity Street, in much the same way as other residential development along the road. The design characteristics and other relevant considerations set out within the aforementioned Neighbourhood Plan policy are considered in more detail in the following sections of this report but for the purposes of assessing the principle of development, Officers are satisfied that this

is acceptable in accordance with both principle policies, subject to an assessment of the other material considerations which are set out below.

Design and impact on the character of area

Local Plan Policy BE1 requires new development to positively contribute to the character and quality of its environment through good layout and design. This is further supported through the Residential Design Guide SPD which provides a framework through which additional design principles are set out to ensure that high quality design is promoted, sensitive to, and in keeping with the area in which it is located.

The application site fronts onto Trinity Street and this section of the street are characterised predominantly by modest two storey mews style houses. The site currently contains a single storey garage building, and it is considered that the proposed coach house, which continues the proportions and coach house character of those neighbouring buildings, would be satisfactorily in-keeping with the neighbouring development.

In the event of a recommendation of approval, submission of samples of materials and large-scale details would have been secured by condition. Officers are satisfied that the design is suitable in the context of the surrounding area and that the development would not result in any harm to the street scene or conservation area.

For the above reasons it is considered the development is acceptable in this regard and as such accords with Policy BE1.

Impact on heritage assets

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

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, "In the exercise, with respect to any buildings or other land in a conservation area... special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

Policy HE1 of the Local Plan expects development proposals to have appropriate regard to the significance of designated heritage assets. Where any potential harm may be caused, the degree of harm must be weighed against any public benefits of the proposal.

Policy RLS3 of the RLSNDP states that development proposals that are within a Conservation Area must assess and address their impact on their heritage significance, demonstrating attention to (inter alia):

- the proposed building type, style, materials and colours in relation to the character area in which it is located and its distinguishing features;

- the relationship of the proposed layout to the existing road pattern, plot sizes and the balance between buildings and garden spaces.
- building height, scale and rooflines sympathetic to the local setting.

Paragraph 199 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 202 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.

Having regard to the design considerations set out above, there is no objection in principle to development on this site and there are no issues with regard to the proposed height and scale of the dwellings.

It is considered that the existing garage building does not have a positive impact on the character of the Conservation Area, although it is noted that garaging fronts the road to the west, and garages are therefore not an alien feature in the area. The Conservation Officer has commented that the proposal is well designed and would sit comfortably within the street scene, the conservation area and the setting on neighbouring listed assets, resulting in an improvement on the existing modern unsympathetic garaging and an improvement in the setting of the neighbouring listed building.

The Conservation Officer has requested conditions requiring written agreement of proposed materials prior to construction to ensure that acceptable materials, colours, textures and finishes are used. In addition, a condition is suggested to ensure that large-scale details of the windows are also submitted for approval to ensure host building. Had the application been otherwise acceptable, these conditions would have been attached.

No objections have been raised by the conservation officer and officers are therefore satisfied that the development would in no way be detrimental to the character and appearance of the conservation area and that the proposal is therefore in accordance with the above stated policies.

Impact on neighbours' living conditions

Policy BE3 of the Warwick District Local Plan states that new development that has an unacceptable adverse impact on the amenity of nearby uses and residents will not be permitted. The Residential Design Guide SPG provides additional guidance and stipulates the minimum requirements for distance separation between properties and that extensions should not breach a 45-degree line taken from a window of the nearest front or rear facing habitable room of a neighbouring property.

The application site has been formed through subdivision of the garden of 28 Clarendon Square, with that property being converted into flats. The site is also bordered by 163 Trinity Street to the east and 167 Trinity Street to the west, both of which are two storey dwellings of a similar scale to that proposed.

Impact on 167 Trinity Street

The proposal would not extend beyond the rear elevation at 167 Trinity Street at either ground or first floor levels and would therefore have no harmful impact on living conditions at that neighbouring dwelling.

Impact on 163 Trinity Street

163 Trinity Street is the neighbouring dwelling to the east and has bedrooms on the ground floor, alongside a courtyard area, with the main living space above. Two of the first-floor rooms have windows in the side elevations only, and the windows serve a living room and a dining room, both of which are habitable as defined within the Residential Design Guide. A terrace area is accessible from the side of the dining room and is the dwelling's main useable amenity space as the courtyard area is enclosed by tall walls, limiting light and outlook to the space.

The living room within No.163 is served by two side facing windows which face towards the application site. The proposal would result in a blank wall positioned just 5.53m from one of those windows but would not block a straight line of view from the other, which would retain a relatively open aspect to the west.

It is recognised that the proposal would dissect a 45-degree line taken from both living room windows, but the Residential Design Guide is clear that the 45-degree guideline will not be applied at the side of dwellings. Whilst this is the case, the living conditions within that room must be considered and given weight. However, on balance, it is considered that whilst the living conditions within the living room would be impacted, the light and outlook available to the southern of the two side facing windows is adequate to serve that room.

The dining room at the rear of the building is largely glazed in the side elevation and positioned further from the rear elevation of the proposal and is therefore not considered to be harmfully impacted in terms of loss of light or outlook. The inner rear elevation of the building includes a kitchen window which is not considered to be harmfully impacted by the proposal as the development would not breach the 45-degree line taken from the centre point of that window.

In terms of the impact on ground floor side facing windows, the light and outlook available to them is currently already restricted by a tall wall on the shared boundary which creates the courtyard area. Whilst it is recognised that the proposal would reduce the level of light available to those windows and within the courtyard, there would be no harmful impact on outlook from those windows, as these are already restricted, and it is considered that the impact on light available to those windows is acceptable considering existing site circumstances.

The proposal has been amended to limit the impact on No.163, in terms of potential loss of privacy, including the inclusion of obscure glazing to the stairwell and one of the two rear bedroom windows. However, the terrace area at No.163 would be visible from the proposed bedroom window. Whilst a degree of overlooking of rear garden areas from first floor windows is not considered unneighbourly, in this instance the relationship is different in that they are on the same floor level, without the possibility of mitigation through boundary fencing. In addition, the proposed bedroom could not be obscure glazed though imposition

of a condition as it would result in an unacceptable level of outlook from that room. It is therefore considered that the proposal would result in unacceptable levels of overlooking of the amenity space at No.164 resulting in unacceptable levels of harm to amenity. The proposal would therefore be contrary to Policy BE3.

Impact on 28 Clarendon Square

The garden area available to properties within 28 Clarendon Square would be reduced. However, assessment of the application for the creation of a flat at basement level within that building (ref: W/22/0890) indicated that sufficient amenity space would be retained for occupiers.

The proposal would be two storeys in height and 28 Clarendon Square is four storeys in height, therefore in accordance with the Residential Design Guide, a separation distance of 32m is required. However, it is considered that this distance relates to the impact on the occupiers of the two-storey building, not the occupiers of the four storey dwelling and that for assessment of neighbouring amenity within ground and first floor levels at 28 Clarendon Square, a distance of 27m is a more relevant distance (being that for two, two storey dwellings with habitable rooms other than a bedrooms at first floor level).

A section plan through the site has been provided which indicates that the ground floor level within 28 Clarendon Square is raised above that at the proposed dwelling, resulting in the ground floor flat within No.28 having approximately the same floor level as the first floor of the proposed dwelling. The separation distance between the ground floor flat and the first floor of the proposal would measure 30m, exceeding the 27m requirement. Measuring from the window sill level of the first floor flat to the roof of the proposed dwelling, would result in a separation distance of over 30m, complying with the separation guidance.

It is therefore considered that the proposal would not impact the living conditions of the flats within 28 Clarendon Square.

Amenity for future occupiers

The Council's RDG sets out separation distance guidance to secure a reasonable standard of amenity, privacy and outlook for residents. The proposal would be two storeys in height and 28 Clarendon Square is four storeys in height, with a raised floor height resulting in a relative height of five storeys when considering the impact on the proposed dwelling. The RDG recommends that a separation distance of 32m is achieved between a two and a three-storey building, not stating distance requirements for buildings taller than this.

At ground floor level, the proposed dwelling would be between 20.8m and 25.3m from the rear elevation at 28 Clarendon Square, increasing to approximately 25.5m at first floor. These distances are significantly less than the distance stated within the RDG in relation to a three-storey building, whilst in this case the neighbouring building would be more akin to a five-storey building. As a result, it is considered that future occupiers of the dwelling would be afforded unsatisfactory living conditions in terms of outlook and privacy.

The Residential Design Guide SPD sets out the minimum requirements for private amenity space, setting a minimum area of 50m² for a three-bedroom house. In

addition, it states that all dwellings should have access to outdoor amenity space that is not overlooked from the public realm and provides a reasonable level of privacy.

The application proposes an area of 74m² of amenity space, exceeding the minimum requirements set out in the RDG. However, users of the neighbouring terrace would directly overlook the garden area and the flats within 28 Clarendon Square would be closer than recommended within the RDG, resulting in additional overlooking. Amendments made during the course of the application have included a brise soleil - a series of louvres to limit overlooking of the ground floor windows and garden area directly to the rear of the house. Whilst it is considered that this could adequately prevent loss of privacy within the dwelling when combined with the proposed one-way glazing, it would not overcome the loss of privacy elsewhere within the garden area.

The proposal has been amended during the course of the application to improve privacy within the proposed dwelling, which has reduced the number of non-obscured bedrooms windows in the rear elevation to one. Whilst this is considered acceptable to provide adequate outlook and light to that bedroom, the window would be overlooked from the neighbouring terrace area.

It is recognised that other coach house dwellings have been built historically along Trinity Street. However, assessment of the planning history of those recent developments have shown that they have achieved compliant separation distances and are not directly comparable to this application. In addition, the site circumstances regarding the neighbouring balcony arrangement is very unusual and has not been repeated elsewhere.

For the reasons stated above, it is considered that the proposal would provide unacceptable living conditions for future occupiers, contrary to Policy BE3.

Access and parking / Highway safety

Local Plan Policy TR1 requires development to provide safe, suitable and attractive access routes for all road users, including drivers of motor vehicles as well as cyclists, pedestrians and public transport users.

Local Plan Policy TR3 requires development to make provision for parking which has regard to the location and accessibility of the site by means other than the private car, does not result in on-street car parking detrimental to highway safety; takes account of the parking needs of disabled car users, motorcyclists and cyclists; and takes account of the requirements of commercial vehicles. Moreover, development will be expected to comply with the parking standards set out in the most recent Parking SPD.

The Parking Standards SPD set out the parking requirements for new dwellings, with two allocated parking spaces required for a three-bedroom dwelling as proposed here. The standards state that when it is not reasonably possible to achieve the parking standards, the submission of a parking survey will be required. The dwellings are proposed with no off-street parking and accordingly, parking surveys were undertaken and submitted with the planning application.

The application site is within Leamington Spa and the immediate area around the site is covered by a Residential Parking Zone. The parking survey submitted by the applicant has been reviewed by the Highways Authority and they have raised no objections to its content, stating that a legal agreement preventing future occupiers from receiving parking permits would be required if there was insufficient capacity within the local RPZ.

The submitted statement includes a beat survey which indicates that there is sufficient capacity for on street parking, both within the RPZ and outside of it. The submission indicates that there is sufficient capacity within the RPZ for this application and the recently approved conversion of the basement within 28 Clarendon Mews. It is therefore considered that a legal agreement to restrict future occupiers' access to parking permits is not required to ensure that the proposal does not detrimentally affect the safety or convenience of other residents and occupiers.

The Parking Standards SPD also set out requirements for bicycle parking, resulting in a requirement for three spaces. The garden proposed is adequate in area to include a bike storage shed and had the application been otherwise acceptable, a suitable condition would have been attached to ensure this was in place prior to first occupation of the dwelling.

Notwithstanding local concerns in the surrounding area, which have been raised in respect of parking and the possible impacts the development may have on the parking network, Officers are satisfied that this has been adequately addressed and there would be no harmful impacts on residential amenity by reason of parking stress.

It is therefore considered that the application is acceptable in this regard and complies with the above stated policies and guidance. For the above reasons officers are satisfied that the development is acceptable in this regard and as such accords with Policies TR1 TR3 and the SPD.

Other matters

Impacts on Ecology

The County Ecologist has raised no objections, subject to inclusion of notes relating to bats, birds, hedgehogs, and incorporation of biodiversity enhancements and had the application been otherwise acceptable, these would have been duly attached. On the basis of this, it is considered that the proposal accords with LP Policies NE2 and NE3.

Environmental Health considerations

The Environmental Health Officer has confirmed there are no objections to the development, subject to conditions. As the site has been previously developed, the first condition requested would require that any contamination found would be reported immediately to the LPA to ensure any required investigation, risk

assessment and remediation. The second condition requested would require works to be completed in accordance with WDC's construction guidelines. Had the application been otherwise acceptable, suitably drafted conditions would have been attached.

Adapting to Climate Change/Air Quality Mitigation

Policy CC1 seeks all new development to be resilient to and adapt to the future impacts of climate change through the inclusion of measures to mitigate against rising temperatures and increased flood risk through sustainable construction measures and the incorporation of sustainable drainage methods.

Had the application been otherwise acceptable, a condition would have been attached to secure a suite of sustainable construction and sustainable energy measures to be secured for the proposed dwelling. This condition would secure the most sustainable form of construction to ensure accordance with LP Policy CC1.

As the proposal relates to a new dwelling, the standard Low Emission Strategy condition would have also been attached to ensure compliance with Policy NE5 and the Air Quality SPD.

Compliance with Policy FW3 in terms of water efficiency would also be secured by condition.

Waste Management

No objections have been raised to the scheme in respect of waste management. The proposed garden would be adequate to include a bin store area and had the application been otherwise acceptable, a condition requiring submission of details would have been attached.

Drainage

The Lead Local Flood Authority were mistakenly consulted due to an inaccurate record of site constraints and were not a statutory consultee in this instance as the site is not within an area of flood risk. As a result, their request for an amended Flood Risk Assessment and additional details are not considered necessary to make an assessment.

SUMMARY/ CONCLUSION

The principle of development is considered acceptable in accordance with Policy H1 of the Warwick District Local Plan as well as Policy RLS1 of the Royal Leamington Spa Neighbourhood Development Plan. The overall scale, mass and design of the proposed dwelling would be in-keeping with the general character of the area and street scene. There are no heritage concerns with the proposal which is not considered to cause any adverse impacts on the character and appearance of the Royal Leamington Spa Conservation Area or concerns in relation to vehicle parking. The proposal would result in an improvement to the appearance of the

Conservation Area and the setting of a Listed Building through replacement of the garage.

However, although the applicant has amended the scheme in response to Officer's concerns, the proposal would result in harm to neighbours' residential amenity in terms of loss of privacy within the terrace amenity area at 163 Trinity Street. In addition, it is considered that the proposal would provide unacceptable living conditions for future occupiers of the proposed dwelling, due to unacceptable levels of outlook and privacy.

The application is therefore contrary to aforementioned policies, and it is recommended that the application is refused.

REFUSAL REASONS

- 1 Policy BE3 of the Warwick District Local Plan 2011-2029 states that development will not be permitted that does not provide acceptable standards of amenity for future users and occupiers of the development. Furthermore, the Residential Design Guide Supplementary Planning Document provides more detailed guidance.

In the opinion of the Local Planning Authority, the proposal would fail to provide a satisfactory living environment for future occupants by reason of unacceptable outlook and privacy.

The proposal is thereby considered to be contrary to the aforementioned policy.

- 2 Policy BE3 of the Warwick District Local Plan 2011-2029 states (inter alia) that development will not be permitted which has an unacceptable adverse impact on the amenity of nearby uses and residents. Furthermore, the Residential Design Guide Supplementary Planning Document includes the 45 Degree Guideline which aims to prevent any unreasonable effect on the neighbouring property by reason of loss of daylight or sunlight and by creating an unneighbourly and overbearing effect.

In the opinion of the Local Planning Authority, the proposal would result in an unacceptable loss of privacy within the terrace area at 163 Trinity Street.

The proposal is thereby considered to be unneighbourly and contrary to the aforementioned policy.

Planning Committee: 08 November 2022

Item Number: 9

Application No: [W 22 / 0928](#)

Town/Parish Council: Leamington Spa
Case Officer: Rebecca Compton
01926 456544 rebecca.compton@warwickdc.gov.uk

Registration Date: 30/05/22
Expiry Date: 25/07/22

Third Floor Flat, 28 Clarendon Square, Leamington Spa, CV32 5QX
Change of use from a 3-bed flat (Use Class C3) to a 4 bed House in Multiple Occupation (HMO) (Use Class C4) (retrospective application) FOR Mr Ramsey

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 conditions 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 residential flat (Use Class C3) to a 4 bed House in Multiple Occupation (Use Class C4).

The proposal as originally submitted was for a 5-bedroom HMO, however the scheme has been subsequently amended and reduced to a 4 bedroom HMO.

THE SITE AND ITS LOCATION

The application site relates to an existing upper floor residential flat which extends over the second, third and fourth floors. The site is located on Clarendon Square, Leamington Spa, within the Royal Leamington Spa town centre.

PLANNING HISTORY

W/18/0191 - Resubmission of W/17/2106: Retrospective change of use from C3 to C4 Property (small HMO for 5 people) - Withdrawn

W/17/2106 - Retrospective change of use from C3 to C4 Property (small HMO for 5 people) - Withdrawn

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)

SUMMARY OF REPRESENTATIONS

Royal Leamington Spa Town Council: Object due to lack of communal living space, contravenes Policy H6 as it would lead to a continuous frontage of HMOs, require comments from Highways and lack of cycle storage.

Councillor Geraldine Cullinan: Objects as development would lead to a continuous frontage of HMOs, would add to existing intensification of students in the area, concerns over waste management and lack of communal space.

WDC Private Sector Housing: Raised concerns over lack of communal living space.

Public Response: 20 objections received on the following grounds:

- Lack of communal living space
- Increase in parking demand as a result of the development
- Would lead to a continuous frontage of HMOs
- Additional HMO in the area would add to existing noise issues and anti-social behaviour
- Would add to the existing high levels of students in the area

Assessment

Principle of Development

Whether the proposal would cause or add to a harmful over-concentration of HMOs in this area

Local Plan Policy H6 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.

Assessment:

- a). Within a 100-metre radius there are 13 existing HMOs out of 198 residential units. The existing concentration level is at 6.6%. The addition of one further HMO would increase the concentration of HMOs to 7.1% which is below the 10% limit of HMOs within a 100-metre radius.
- b). The nearest bus stop is located on Binswood Street which is within 400 metres walking distance of the property.
- c). The existing property does not sandwich a non-HMO between another HMO.
- d). It does not lead to a continuous frontage of HMOs.
- e). The proposal would retain the existing waste and recycling storage arrangements to the rear of the property. The containers would be stored in an area not accessible by the general public and the bins would be moved outside on collection day.

It is noted that the adjacent buildings at 25-27 Clarendon Square have been converted to a number of flats of which some are occupied as HMOs. 25 Clarendon Square benefits from 1 HMO to the ground floor flat, 26 Clarendon Square benefits from a HMO to the ground floor flat and 27 Clarendon Square also benefits from a HMO to the ground floor flat. Therefore, whilst the development would introduce a HMO to No.28 Clarendon Square, this HMO is located to the third and fourth floors and so would not create a sandwiching impact to the adjoining third and fourth floor flats to either property at No. 27 or No.29 Clarendon Square. Furthermore, as the adjacent HMOs are contained at ground floor, the proposed HMO to the third and first floors would not lead a continuous frontage of 3 or more HMOs.

Officers note and understand the concerns of local residents regarding an additional HMO adjacent to other existing HMOs. However, Officers also consider that given the adjacent buildings are converted to a number of flats which are accessed internally, residents would be subject to various external and internal movements associated with the various residents occupying the flats in any case. Therefore, movements associated with individuals occupying a HMO would not experience in the same way as a typical dwelling.

On the basis of the above, the development meets the requirements of Local Plan Policy H6 and is therefore considered acceptable.

Impact on the Street Scene

The development does not include any external alterations and so would 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.

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. There is a responsibility

for development not to cause undue disturbance or intrusion for nearby users in the form of loss of privacy, loss of daylight, or create visual intrusion.

The proposed change of use includes no external alterations. The proposal is therefore unlikely to have an impact on neighbouring residential amenity which would warrant reason for refusal of the application.

The proposed HMO would provide adequate living conditions for the future occupiers, all rooms benefit from outlook and light.

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

Parking & Highway Safety

The existing parking requirement for the 3-bedroom flat is 2 spaces and the requirement for the proposed 4 bed HMO would also be 2 spaces, according to the Council's adopted Parking Standards SPD. The parking for the site is on-street and the occupants of the existing flat would be eligible for parking permits. As the development would result in no net increase in the number of required car parking spaces and the proposed change of use would not generate additional demand of on-street parking, the proposal is considered to be acceptable.

Given that the proposed change of use was originally proposed for 5 bedrooms which would lead to additional parking demand on street, Officers consider it necessary to include a planning condition restricting the number of bedrooms to 4 to avoid the use of the site intensifying without an assessment of parking impact being made.

The proposal would therefore be in accordance with Policy TR3 of the Local Plan.

Other Matters

Private Sector Housing raised concerns over the lack of communal space for occupants of the HMO. As a result, the scheme has been amended and one of the bedrooms is now shown as communal living space. As mentioned above, a condition has been proposed to limit the number of bedrooms to 4 to avoid an increase in demand for parking and to secure adequate levels of amenity.

Conclusion

The proposed 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 by reason of an unacceptable concentration of HMOs. There would be no increased demand on parking as a result of the change of use. The proposed 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 proposed floor plans, and specification contained therein, submitted on

30th September 2022. **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 total number of bedrooms shall not exceed 4. **REASON:** To ensure satisfactory living conditions for occupiers of the dwelling and to ensure the satisfactory provision of off-street parking in accordance with the local planning authority's Parking Standards and in the interests of residential amenity and highway safety in accordance with Policies BE3 and TR3 of the Warwick District Local Plan 2011-2029.

Planning Committee: 08 November 2022

Item Number: 10

Application No: [W 22 / 1106](#)

Town/Parish Council: Leamington Spa
Case Officer: Rebecca Compton

Registration Date: 01/07/22
Expiry Date: 26/08/22

01926 456544 rebecca.compton@warwickdc.gov.uk

32 Russell Terrace, Leamington Spa, CV31 1EZ

Erection of 2no. dwellings (re-submission of planning permission ref:
W/19/1379) FOR Dr Davies

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

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 development is for the erection of a pair of three-bedroom, semi-detached dwellings on land at 32 Russell Terrace, which has previously been granted in 2020. The purpose of this application is to secure an extended time period for commencement of development.

The proposal is to infill the front garden area of 32 Russell Terrace which is set to the very rear of the plot where the site is adjacent to Plymouth Place.

The proposed dwellings would address Russell Terrace with a similar setback to the existing properties along the street.

The dwellings are designed in a traditional form with bay windows to the front under a pitched roof. To the rear, inset wings are proposed mirroring the general character of other traditional buildings within the street scene.

To the rear a single storey glazed lean-to is proposed to the side of the inset rear wings which is a character required for side courtyard infill developments as set out in the Council's Residential Design Guide SPD.

Parking is proposed to be provided through the provision of additional street bays to be provided on the public highway to the front of the site to extend the existing parking area that currently exists.

THE SITE AND ITS LOCATION

32 Russell Terrace is an existing dwelling that sits to the very rear of the plot where it abuts Plymouth Place. The front garden extends from the dwelling to Russell Terrace. This layout is mirrored by No. 30 Russell Terrace which lies immediately to the west. The remaining properties fronting Russell Terrace have their frontages directly onto Russell Terrace.

The land is set into two distinct areas – private garden area for the dwelling and an area of hardstanding immediately fronting onto Russell Terrace.

The site lies within the Royal Leamington Spa Conservation Area.

Russell Terrace is a mixture of characters and ages of properties with no set design ethos that defines the overall appearance of the area.

PLANNING HISTORY

W/20/1379 - Erection of 2no. dwellings - Granted 04.04.2020

W/19/0144 - Proposed residential development consisting of two three-storey 4-bedroom units – Withdrawn 06.03.2019.

W/05/1553 – Erection of a detached dwelling fronting Russell Terrace - Refused 25.10.2005

Note: Planning permission was refused on the basis that it was an outline planning permission in the Conservation Area and therefore contained no detailed plans to carry out the relevant impact assessment.

W/02/1904 – Erection of two storey and single storey pitched roof extensions (after demolition of outbuildings) - Granted 25.05.2004

W/00/0467 – Construction of a pitched roof to replace a flat roof over the garage area - Granted 11.09.2000

W/79/0019 – Erection of replacement garage - Granted 20.02.1979

RELEVANT POLICIES

- National Planning Policy Framework
- Warwick District Local Plan 2011-2029
- DS5 - Presumption in Favour of Sustainable Development
- H0 - Housing
- H1 - Directing New Housing
- SC0 - Sustainable Communities
- BE1 - Layout and Design
- BE3 - Amenity
- TR1 - Access and Choice
- TR3 - Parking
- FW3 - Water Conservation

- HE1 - Protection of Statutory Heritage Assets
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- NE3 - Biodiversity
- NE5 - Protection of Natural Resources
- 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, subject to no objection from Highways.

WCC Ecology: Object due to concerns over loss of biodiversity and impact on protected species.

WCC Highways: Object due to lack of updated parking survey.

Public Response: 11 objections received on the following grounds:

- Loss of garden space
- Negative impact on parking in the area
- Parking survey out of date
- Parking for existing dwelling sub-standard
- Will result in a loss of biodiversity
- No reference to appeal decision at No. 34 Russell Terrace.
- Site not brownfield land but important garden and amenity land
- Existing parking spaces to Russell Terrace will be lost
- Refuse arrangements for existing dwelling not clear
- Will result in negative impact on neighbouring amenity due to parking

ASSESSMENT

Principle of Development

The principle of development has already been established under the previous permission granted in 2020, which remains extant. There has been no policy change and the proposed residential development is still considered to be in accordance with the relevant housing policies and therefore is considered to be acceptable.

Design and impact on visual amenity and the character of the surrounding area and the Royal Leamington Spa Conservation Area

Section 12 of the National Planning Policy Framework (NPPF) places significant weight on ensuring good design which is a key aspect of sustainable development and should positively contribute towards making places better for people. The NPPF states that permission should be refused for development of poor design that fails

to take the opportunities available for improving character, the quality of an area and the way it functions.

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

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

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act stipulates that with respect to any buildings or other land in a Conservation Area special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

Warwick District Local Plan Policy HE1 (Designated Heritage Assets and their setting) states that development will not be permitted if it would lead to substantial harm to or total loss of the significance of a designated heritage asset, unless it is demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Where development would lead to less than substantial harm to the significance of a designated heritage asset, this harm will be weighed against the public benefits of the proposal, in securing its optimum viable use. In terms of Conservation Areas, development will be expected to respect the setting of Conservation Areas and important views both in and out of them.

The proposed design has not been amended from the previously approved scheme W/19/1379. Under this application the proposed dwellings were considered to reflect the character of existing buildings within the local street scene. The proposed dwellings take design cues from other dwellings in the immediate street scene such as through the use of bay windows, the use of a smooth render finish to the primary elevation under a pitched natural slate roof for example.

The previous scheme was assessed by the Council's Conservation Officer who raised no objection to the scheme at that time, the current application does not seek to amend the approved design in anyway.

In line with the assessment of the previously approved scheme which remains extant, officers are satisfied that the development proposal would be acceptable in terms of the impact on the character of the local area, street scene and Royal Leamington Spa Conservation Area. The proposal is therefore considered acceptable having regard to Policies BE1 and HE1 of the Local Plan.

Impact on the character and setting of the nearby Listed Building

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty to have special regard to the desirability of preserving a listed building or its setting, when considering whether to grant a planning permission, which affects a listed building or its setting.

Paragraph 193 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.

Warwick District Local Plan Policy HE1 (Designated Heritage Assets and their setting) states that development will not be permitted if it would lead to substantial harm to or total loss of the significance of a designated heritage asset, unless it is demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Where development would lead to less than substantial harm to the significance of a designated heritage asset, this harm will be weighed against the public benefits of the proposal, including securing its optimum viable use.

The closest Listed Buildings to the site are on the opposite side of Russell Terrace at numbers 35 and 37 Russell Terrace. The previously approved scheme considered the impact on the setting of these Grade II listed buildings to be acceptable. This proposal does not seek to amend the previously approved design and layout of the proposed dwellings and officers are satisfied the development would not have a detrimental impact on the setting of the Grade II Listed Buildings.

The development is therefore considered to be acceptable having regard to Policy HE1 of the Local Plan.

Impact on adjacent properties

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

The proposal has the primary windows facing to the front and rear and the separation distances all exceed the required standards for the dwellings to the front and rear of the site.

The previously approved scheme was found to be acceptable in terms of the impact on levels of light and outlook to neighbouring dwellings. As the current proposal does not seek to amend the approved design or layout in any way, officers are satisfied that the proposed dwellings would not result in any significant demonstrable harm to neighbouring amenity.

The proposal is therefore considered acceptable having regard to Policy BE3.

Amenity of future occupiers

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

The previously approved scheme was assessed in terms of amenity of future occupiers and was considered to provide an acceptable level of outlook and amenity to the future users and occupiers and provided an acceptable level of private amenity space. There are no changes proposed to the approved design and so officers are satisfied the level of amenity for future occupiers is acceptable in line with officers assessment of the scheme previously.

Officers are also satisfied that the development retains sufficient amenity space for the retained dwelling. The appearance of this dwelling currently appears to be the front elevation facing onto Plymouth Place and the rear facing onto Russell Terrace with the traditional rear garden area in this location. The occupiers of this dwelling would therefore not be adversely affected by the proposed development.

The proposal is therefore considered acceptable having regard to Policy BE3 of the Local Plan.

Parking & 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 adopted Parking Standards SPD.

The application site does not provide for off-street parking for the proposed new dwellings. The scheme makes provision for 4 additional parking bays to the frontage of the site on Russell Terrace which would be capable of delivering parking for the new three-bedroom dwellings each requiring 2 spaces. These bays have been designed to ensure that they do not encroach on the existing access protection markings at the access to No. 30 Russell Terrace. The County Highways Officer assessed the proposed parking as part of the previously approved scheme and was satisfied that these bays could be secured and delivered through an appropriately worded planning condition and a requirement to enter into an agreement with the County Highways Office to carry out the works in accordance with the relevant standards prior to the first occupation of the proposed dwellings. These previously imposed conditions are also proposed for the current application.

It is acknowledged that the occupiers of the new dwellings would not have exclusive rights over the newly created spaces to the frontage as the on-street parking in this area is unrestricted. This is the same situation for the majority of the existing dwellings within the area that do not benefit from private drives. However, the addition of the extra parking bays would increase capacity in line with the Council's parking standards and mitigate against the additional demand for parking generated by the proposed development in the local area.

The previously approved scheme sought to remove the garage to the side of the existing property that will open up an existing car port area to the side with a parking space within together with a parking space on the newly created driveway area, giving a total of two off-street spaces. This was previously found to be acceptable, and the current proposal does not seek to amend the approved parking arrangements for the existing property.

It is noted that the Highways Authority have raised an objection to the scheme on grounds that the previously submitted parking survey has not been updated under the current application. A number of local objections have also been received raising the same concerns. However, Officers have considered this and note that the applicant volunteered a parking survey under the previous application, and this was not a requirement under the Parking Standards SPD. The current and previously approved scheme addressed the parking demands generated by the development through the creation of 4 on street parking bays to serve the 2 new dwellings and 2 off-street spaces to serve the existing dwelling which was previously accepted by the Highways Authority. Officers are therefore of the view that given no changes are proposed under the current scheme and given the previous scheme still remains extant, it is considered unreasonable to request an updated parking survey which for all intents and purposes would be irrelevant given the context outlined.

For the above reasons, Officers are satisfied that subject to conditions, the development is acceptable having regard to Policies TR1 and TR3 of the Local Plan.

Impact on Ecology/Protected Species

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

The application site is open garden land within the curtilage of the existing dwelling and the impact on ecological features is therefore limited. There is some vegetation clearance required to facilitate the proposal which will result in loss of biodiversity, a biodiversity enhancement scheme will be secured via condition.

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

Trees/Hedgerows

There are no significant trees or hedgerows within the site that would be lost as a result of the proposal. Any vegetation removed can be mitigated for in the provision of new landscaping to serve the dwellings. This can be secured by condition.

Air Quality

As the proposal introduces a use that would result in increased traffic movements, an Air Quality Mitigation scheme is proposed by condition to secure measures to offset any potential impact on air quality in this location and to comply with Policy NE5 and the Planning & Air Quality SPD.

Water Efficiency

A condition can be applied to secure compliance with Policy FW3 of the Local Plan.

Conclusion

The development is located within the urban area of Royal Leamington Spa where housing is considered acceptable in principle.

The proposal has been assessed and is considered acceptable having regard to the impact on the character and amenity of the local area and Royal Leamington Spa Conservation Area, the impact on the amenity of neighbours and future occupiers, highway safety and ecological matters.

Site specific matters can be adequately controlled by condition.

For the above reasons, Officers recommend that the application be granted, subject to conditions.

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) 1287-0505-01, 1287-0504-02, 1287-0500-07, 1287-0501-08, and specification contained therein, submitted on 01st July 2022. **REASON:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1, BE3 and HE1 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 including details of all boundary treatments 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. Render shall be smooth sand and cement painted and tiles shall be natural slate. **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 All window and door frames shall be constructed in timber and shall be painted and not stained. **REASON:** To ensure an appropriate standard of design and appearance within the Conservation Area, and to satisfy Policy HE1 of the Warwick District Local Plan 2011-2029.
- 5 Notwithstanding the submitted details, no development shall be carried out above slab level unless and until large scale details of doors, windows (including a section showing the window reveal, heads and cill details), eaves, verges, rainwater goods and front boundary treatment at a scale of 1:5 (including details of materials) have been submitted to and approved by the Local Planning Authority. The development shall not be carried out otherwise than in strict accordance with such approved details. **REASON:** To ensure an appropriate standard of design and appearance within the Conservation Area, and to satisfy Policy HE1 of the Warwick District Local Plan 2011-2029.
- 6 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. **REASON:** To ensure mitigation against air quality impacts associated with the proposed development in accordance with Policy NE5 of the Warwick District Local Plan.
- 7 The development hereby permitted shall not be occupied unless and until the external refuse storage areas for the development have been constructed or laid out and made available for use by the occupants of the development and thereafter those areas shall be kept free of obstruction and be available at all times for the storage of refuse associated with the development. **REASON:** To ensure the satisfactory provision of refuse 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.
- 8 The development hereby permitted shall not be occupied unless and until the car parking and manoeuvring areas indicated on the approved drawings have been provided and thereafter those areas shall be kept marked out and available for such use at all times. **REASON:** To ensure adequate car parking and servicing facilities in the interests of both highway safety and visual amenity in accordance with Policies BE1, BE3 and TR3 of the Warwick District Local Plan 2011-2029.
- 9 The development hereby permitted shall not be occupied until a detailed landscaping scheme has been submitted to identify all retained planting and new planting where required to mitigate for the loss of existing vegetation and thereafter approved in writing by the Local Planning Authority. Thereafter, the planting shall be carried out in accordance with the approved scheme within the first planting season following the

first occupation of the dwelling. **REASON:** To ensure an appropriate level of landscaping is proposed in the interest of visual amenity and biodiversity having regard to Policies BE3 and NE4 of the Warwick District Local Plan 2011-2029.

10 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.

11 Prior to the occupation of the development hereby permitted, all side facing windows at first floor level 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. **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 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.

Application No: [W 22 / 1276](#)

Town/Parish Council: Leamington Spa
Case Officer: Matthew Godfrey

Registration Date: 08/09/22
Expiry Date: 03/11/22

01926 456642 matthew.godfrey@warwickdc.gov.uk

25 Beverley Road, Leamington Spa, CV32 6PH

Planning permission is sought for the erection of a single-storey rear extension, a two-storey front and side extension, and rendering on the top half of all elevations. FOR Mr and Mrs Badhan

This application is being presented to 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.

THE SITE AND ITS LOCATION

The application site is an early 1960s, red brick, detached property located on the northwest side of Beverley Road. The streetscene is characterised by two-storey detached properties that vary in form with a mostly red brick design code.

DETAILS OF THE DEVELOPMENT

Planning permission is sought for the erection of a single-storey rear extension, a two-storey front and side extension, and rendering on the top half of all elevations.

The proposal transforms the original 1960s dwelling into a modern style dwelling which shall feature two protruding dual pitched roof sections on the front elevation, separated by a glass façade inset, all finished in white render on the top half and constructed of brick on the bottom half.

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

Royal Leamington Spa Neighbourhood Plan 2019-2029

- RLS2 - Housing Design
- RLS4 - Housing Character Outside the Conservation Areas

Guidance Documents

- Residential Design Guide (Supplementary Planning Document- May 2018)
- The 45 Degree Guideline (Supplementary Planning Guidance)

SUMMARY OF REPRESENTATIONS

Royal Leamington Spa Town Council - No objection.

Public Objections - 20 objections received on the basis that the proposal is over development.

Assessment

The key issues for consideration are:

- Design
- Amenity impacts on neighbouring properties
- Ecology
- Parking

Design and impact on the street scene

Local Plan Policy BE1 states that development will be permitted where it harmonises with and contributes positively to the surrounding area. This is also reflected in guidance within the Residential Design Guide SPD which sets out design principles which development proposals will be expected to comply with. In addition, paragraph 130 of the National Planning Policy Framework (NPPF) dictates that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.

Firstly, the single-storey rear extension is considered to have a high-quality design which would be completely hidden from the streetscene. Secondly, the two-storey side extension, adjacent to no.23, is appropriately stepped 1m away from the neighbouring boundary within accordance to the Residential Design

Guide. Finally, the two-storey front extension does not significantly step forth of the existing building line at ground-floor level.

The proposal involves a modernisation of the original dwelling - a precedent set by numerous other properties which have undergone such development on Beverley Road. No.54 has been granted a very similar kind of scheme. Therefore, the proposal will not seem incongruous in the streetscene given that properties on Beverley Road vary in form and style.

In summary, it is considered that the development accords with the guidance set out in the Council's Residential Design Guide and policy BE1 of the Local Plan.

Impact on the amenity of neighbouring uses

Local Plan Policy BE3 requires all development to have an acceptable impact on the amenity of all neighbouring residents, in terms of light, outlook and privacy. Furthermore, the District Council has also adopted Supplementary Planning Guidance on the 45 Degree Guideline which aims to prevent any unreasonable effect on the neighbouring property by reason of loss of daylight or sunlight and by creating an unneighbourly and overbearing effect.

The location of the property and the position of the proposed additions mean that there is no infringement on the 45-degree line and the development shall not negatively impose on neighbour amenity.

It is therefore considered that the proposals are in accordance with Local Plan Policy BE3.

Parking

The proposed development does not encroach onto existing parking space, which can comfortably hold three vehicles even with the removal of the garage. As a result, the scheme is viewed to suitably align with Local Plan Policy TR3 and the WDC Parking Standards SPD which suggests there be three parking spaces for residential houses with 4+ bedrooms.

Ecology

Policy NE2 of the Local Plan seeks to protect designated biodiversity assets and protected species, ensuring they are not adversely impacted by development proposals. The proposed development is considered to be in accordance with Policy NE2 of the Local Plan.

Public Objections

Twenty public objections were received. Common phrases referenced were 'overdevelopment', 'terracing effect', and 'parking'.

The front extension element of the proposal steps forth approximately 0.8m of the original garage, thus not significantly exceeding the extent of no.27 at ground floor level as per the Block Plan. At first-floor level, the front extension shall protrude the existing building line, but this would not appear out of place to an extent that could justify a refusal of planning permission.

A terracing effect has been mitigated by ensuring a 1m separation distance to the neighbouring boundaries either side of the dwelling is upheld in accordance with the Residential Design Guide.

Regarding the matter of parking – the scheme does not encroach onto the parking space available, however does involve the removal of the garage. Given that the parking space can hold three vehicles, there would be no justification to refuse this application.

Furthermore, it was noted by most objectors that the revised plans did not change from the superseded plans. This is correct - the proposal remained the same given there was no breach to planning policy. However, a discrepancy in the Block Plan showed a different footprint to the one being proposed. Therefore, an accurate revision was submitted, and a second consultation period was held so that a well-informed consultation could take place. Revised plans also included a streetscene plan to show how the proposal would interact with the neighbouring properties. It is evident from this that the ridge height is maintained.

Summary and Conclusion

The proposal is considered to constitute good quality design and to have an acceptable impact on the amenity of the neighbours and the current and future occupiers of the dwelling. The proposal is considered to satisfy the criteria of Local Plan Policies BE1, BE3 and the Residential Design Guide SPD. Therefore, it is recommended that this application should 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 and approved drawings 1677-0500-01 and 1677-0501-02, and specification contained therein, submitted on 08/09/2022. **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 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.
- 4 Notwithstanding the provisions of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no part of the dwellinghouse shall be rendered other than as shown on the approved drawings. **Reason:** To secure a satisfactory form of development in accordance with Policy BE1 of the Warwick District Local Plan 2011-2029.
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Application No: [W 22 / 1345](#)

Town/Parish Council: Leamington Spa
Case Officer: Jonathan Gentry
01926 456541 jonathan.gentry@warwickdc.gov.uk

Registration Date: 13/09/22
Expiry Date: 08/11/22

Althorpe Enterprise Hub, Althorpe Street, Leamington Spa, CV31 2GB
Replacement of existing aluminium windows with white UPVC double glazed units, and installation of integral solar panels to the front and rear roof slopes.
FOR Warwick District Council

The application has been referred to Planning Committee as the applicant is Warwick District Council.

RECOMMENDATION

Members are recommended to grant permission, subject to the conditions listed at the end of this report.

DETAILS OF THE DEVELOPMENT

The proposal seeks planning permission for the replacement of existing aluminium windows with white UPVC double glazed units, and installation of integral solar panels to the front and rear roof slopes.

THE SITE AND ITS LOCATION

The site relates to an existing two storey commercial unit positioned to the west of Althorpe Street, Leamington Spa. The site is surrounded by comparable commercial and industrial uses to its northern and eastern aspects, with the Waterside Medical Centre positioned a short distance to the west behind the site, and a student housing development to the south. The site does not lie within a designated Conservation Area, although the Canal Conservation Area boundary does abut the southern edge of the site area.

PLANNING HISTORY

There is no relevant planning history relating to this development.

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
 - CC1 - Planning for Climate Change Adaptation
 - CC2 - Planning for Renewable Energy and Low Carbon Generation
- Royal Leamington Spa Neighbourhood Plan 2019-2029

SUMMARY OF REPRESENTATIONS

Royal Leamington Spa Town Council - Members raise no objection, stating support in regards to the sustainability benefits of the proposed works.

WCC Ecological Services - The consultee Ecologist recommended the submission of site imagery to assess the necessity of any bat survey/supervision measures.

ASSESSMENT

Design and impact on the street scene

Warwick District Council's Local Plan 2011 - 2029 Policy BE1 outlines that development will be supported where constructed using appropriate materials and seeks to ensure that the appearance of the development and its relationship with the surrounding built and natural environment does not detrimentally impact the character of the local area.

The proposed works to the building are limited to the replacement of existing window units and installation of solar PV panels to its eastern and western roof aspects.

The replacement of existing aluminium windows with grey coloured uPVC units is considered acceptable in design terms. The scheme does not comprise the introduction of any additional openings, nor any change to the window layout. The existing site is of no notable architectural or historic value and the proposed alterations to fenestration would somewhat modernise and refresh its appearance.

The proposed installation of photovoltaics to the roof of the site would result in a somewhat greater visual implication on its setting. However, given that this characterised by commercial and industrial units no appreciable harm to the setting is viewed to result from this element of the works. In addition, the proposed use of Marley solar tiles as opposed to traditional panels further reduces the visual prominence of the development by setting the photovoltaics into the roof aspects as opposed to mounting on top of them.

While within proximity of the Canal Conservation Area, the proposed development is not considered to result in any harm to the setting of this heritage designation.

Overall it is considered that the works would form appropriate design features that would not adversely affect the character and appearance of the area.

Impact on residential amenity

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

Neighbouring Amenity

As noted above, the proposed works would not result in the instruction of any additional window openings, nor would they comprise the erection of extensions or enlargements to the building. As such, the only identified implication of the proposed works would be via the introduction of reflective materials to the roof of the building in the form of photovoltaic tiles.

The potential for sunlight to be reflected onto neighbouring properties would be limited by the fact that the panels would lie on a shallow pitched roof that is some distance above ground level. In addition, the immediately adjacent residential building within the student housing development does not feature any windows that open onto the aspect of the building facing the application site.

As a result, the position of the installation is such that it is not viewed likely to result in harmful levels of glare or reflection onto neighbouring units. While a limited degree of reflection is likely to result from the proposed installation, this is not considered to result in the generation of material harm to the amenity of adjacent uses.

Future Occupiers

The proposed works would not result in any material implication to current and future occupiers of the site in amenity terms.

As a result of these considerations, overall the development is considered to comply with Policy BE3 in terms of impact on amenity to neighbouring uses and the amenity of the future occupiers.

Access and Parking

No change to the existing parking/access arrangements to the site would result from the proposed development.

Ecology and biodiversity

Policy NE2 of the Local Plan seeks to protect designated biodiversity assets and protected species, ensuring they are not adversely impacted by development proposals.

The County Ecologist at WCC commented on the application requesting the submission of site photos to assess the necessity of bat survey works in association with the alterations to the roof of the building. Following the provision of information the Ecologist advised that while no bat survey work is necessary, the inclusion of a bat supervision of works condition is recommended. In addition, a condition to secure the installation of bat boxes was recommended in order to provide a biodiversity net gain following the works.

In line with these considerations Officers are satisfied the proposal is acceptable in accordance with the provisions of WDC Local Plan Policy NE2.

Sustainability

Officers note that the proposed works have been designed to enhance the sustainability of the building. Accordingly, it is noted that the alterations to existing fenestration are likely to enhance thermal characteristics, while PV tiles would facilitate a level of on-site power generation. With this in mind Officers view that the proposal appropriately accords with the provisions of WDC Local Plan policies CC1 and CC2.

SUMMARY/CONCLUSION

For the reasons outlined above, Members are recommended to grant permission for the proposed works, subject to the conditions listed at the end of this report.

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 approved site location plan and solar tile manufacturer specification 'Marley SolarTile' submitted on the 13th September 2022, drawings 'XX-ZZ-02-AR-012004', 'XX-ZZ-02-AR-012005' submitted on the 20th September 2022, 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 The development hereby permitted shall be undertaken in the presence of a qualified bat worker appointed by the applicant to supervise all destructive works to the roof of the building in order to fit the proposed solar panels. All roofing material is to be removed carefully by hand. Should evidence of bats be found during this operation, then work must cease immediately while Natural England and WCC Ecological Services are consulted for further advice. Any subsequent survey work, recommendations or remedial works will be implemented within the timescales agreed between the bat worker and the Local Authority

Ecologist/Natural England. Notwithstanding any requirement for remedial work or otherwise, the qualified bat worker's report shall be submitted to the local planning authority within 1 month following completion of the supervised works to summarise the findings.

REASON: To safeguard the presence and population of a protected species in line with UK and European Law, the National Planning Policy Framework and Policy NE2 of the Warwick District Local Plan 2011-2029.

- 4 No part of the development hereby permitted shall be commenced until a scheme for the provision of 2 bat boxes to be erected on buildings within the site, has been submitted to and approved in writing by the District 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:** To ensure net gains in biodiversity, in accordance with the requirements of the NPPF.
