

**Application No:** [W 19 / 0067](#)

**Town/Parish Council:** Warwick  
**Case Officer:** Helena Obremski

**Registration Date:** 08/02/19  
**Expiry Date:** 10/05/19

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**Former Tamlea Building, Nelson Lane, Warwick, CV34 5JB**

Redevelopment of the former Tamlea Building for residential purposes, (including the demolition of all existing buildings) and creation of associated access, parking, landscaping and associated infrastructure, to provide 31 affordable residential units. FOR Orbit Group Limited

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This application is being presented to Committee as there have been 5 letters of support for the application and it is recommended for refusal.

**RECOMMENDATION**

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

**DETAILS OF THE DEVELOPMENT**

The proposal seeks full planning permission for the redevelopment of the former Tamlea Building for residential purposes, (including the demolition of all existing buildings) and creation of associated access, parking, landscaping and associated infrastructure, to provide 31 residential units. The scheme would be 100% affordable housing.

**THE SITE AND ITS LOCATION**

The application relates to industrial premises situated on the northern side of Nelson Lane. This part of Nelson Lane contains a mixture of commercial and residential properties, with predominantly commercial uses on the northern side and predominantly residential uses on the southern side. However, the adjacent premises to the west have recently been converted to residential use.

The site is bounded by Nelson Lane to the south and by the Grand Union Canal to the north. The site is located immediately adjacent to the recently adopted Canal Conservation Area. There is a boatyard on the canalside adjoining the northern boundary of the site and the vehicular access to this runs along the western boundary of the site. The building on the opposite side of this access has recently been converted into residential use. Further industrial premises adjoin the site to the east. There are dwellings on the opposite side of Nelson Lane.

Industrial buildings cover much of the western half of the site, with an open yard area to the eastern half. There is a parking area to the front of the buildings on the Nelson Lane frontage. There are two lines of trees on the site, one on the eastern boundary and one on part of the Nelson Lane frontage. There are further trees between the site and the canal.

## **PLANNING HISTORY**

There have been a number of previous planning applications relating to the existing industrial premises on the application site. However, most of these are not relevant to the consideration of the current proposals.

W/17/0701 - Development of 47no. residential units to include houses and apartments (outline application including details of access, layout and scale) - planning permission refused for: loss of employment land; harmful design; loss of important natural features; substandard cycle parking; inadequate information relating to drainage and flood risk; unacceptable impact on neighbouring residential amenity; unacceptable living conditions for the future occupiers of the dwellings; highway safety concerns; inadequate access for refuse vehicles to enter the manoeuvre around the site.

W/15/0765 - Change of use from engineering units to a two year temporary use for vehicle storage - planning permission approved.

W/11/1173 - Construction of five industrial units and car parking - planning permission approved.

## **RELEVANT POLICIES**

- National Planning Policy Framework
- DS1 - Supporting Prosperity (Warwick District Local Plan 2011-2029)
- DS2 - Providing the Homes the District Needs (Warwick District Local Plan 2011-2029)
- DS3 - Supporting Sustainable Communities (Warwick District Local Plan 2011-2029)
- DS4 - Spatial Strategy (Warwick District Local Plan 2011-2029)
- DS5 - Presumption in Favour of Sustainable Development (Warwick District Local Plan 2011-2029)
- PC0 - Prosperous Communities (Warwick District Local Plan 2011-2029)
- EC3 - Protecting Employment Land and Buildings (Warwick District Local Plan 2011-2029)
- H0 - Housing (Warwick District Local Plan 2011-2029)
- H1 - Directing New Housing (Warwick District Local Plan 2011-2029)
- H2 - Affordable Housing (Warwick District Local Plan 2011-2029)
- H4 - Securing a Mix of Housing (Warwick District Local Plan 2011-2029)
- SC0 - Sustainable Communities (Warwick District Local Plan 2011-2029)
- BE1 - Layout and Design (Warwick District Local Plan 2011-2029)
- BE3 - Amenity (Warwick District Local Plan 2011-2029)
- TR1 - Access and Choice (Warwick District Local Plan - 2011-2029)
- TR2 - Traffic generation (Warwick Local Plan - 2011-2029)
- TR3 - Parking (Warwick District Local Plan - 2011-2029)
- HS1 - Healthy, Safe and Inclusive Communities (Warwick District Local Plan 2011-2029)
- HS4 - Improvements to Open Space, Sport and Recreation Facilities (Warwick District Local Plan 2011-2029)
- HS6 - Creating Healthy Communities (Warwick District Local Plan 2011-2029)
- HS7 - Crime Prevention (Warwick District Local Plan 2011-2029)

- CC1 - Planning for Climate Change Adaptation (Warwick District Local Plan 2011-2029)
- CC3 - Buildings Standards Requirements (Warwick District Local Plan 2011-2029)
- FW1 - Development in Areas at Risk of Flooding (Warwick District Local Plan 2011-2029)
- FW2 - Sustainable Urban Drainage (Warwick District Local Plan 2011-2029)
- FW3 - Water Conservation (Warwick District Local Plan 2011-2029)
- FW4 - Water Supply (Warwick District Local Plan 2011-2029)
- HE1 - Protection of Statutory Heritage Assets (Warwick District Local Plan 2011-2029)
- HE2 - Protection of Conservation Areas (Warwick District Local Plan 2011-2029)
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets (Warwick District Local Plan 2011-2029)
- NE3 - Biodiversity (Warwick District Local Plan 2011-2029)
- NE4 - Landscape (Warwick District Local Plan 2011-2029)
- NE5 - Protection of Natural Resources (Warwick District Local Plan 2011-2029)
- DM1 - Infrastructure Contributions (Warwick District Local Plan 2011-2029)
- DM2 - Assessing Viability (Warwick District Local Plan 2011-2029)
- HS8 - Protecting Community Facilities (Warwick District Local Plan 2011-2029)
- Open Space (Supplementary Planning Document - June 2009)
- Affordable Housing (Supplementary Planning Document - January 2008)
- Residential Design Guide (Supplementary Planning Document- May 2018)
- Distance Separation (Supplementary Planning Guidance)
- The 45 Degree Guideline (Supplementary Planning Guidance)
- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Parking Standards (Supplementary Planning Document)
- Air Quality & Planning Supplementary Planning Document (January 2019)

## **SUMMARY OF REPRESENTATIONS**

**Warwick Town Council:** Neutral, concerned that the developer has not allowed any green space, the nearest green space is over 700m away which contradicts what is said on Orbit's website.

**Inland Waterways:** No objection in principle, however, concern expressed regarding additional traffic. The changes to the waterside boundary now allow some vistas of the canal corridor, albeit of a limited nature.

**Sports and Leisure:** No objection subject to contributions of £25,697 towards the improvement of indoor sports facilities, £2,203 towards the improvement of outdoor artificial sports facilities and £9,559 towards the improvement of grass pitches.

**Environmental Protection:** Objection, the proposals provide an inadequate noise environment for the future occupiers of the proposed development, which could lead to complaints against an existing business.

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

**Open Space:** No objection, subject to a contribution of £160,704 towards the improvement of local open spaces.

**Waste Management:** No objection.

**WDC Housing:** Supports the application for 100% affordable housing.

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

**WCC Ecology:** No objection, subject to conditions and an informative note relating to protected species.

**WCC Rights of Way:** No objection, subject to the provision of £936 towards improvements to public rights of way.

**WCC Highways:** No objection, subject to conditions and the provision of £15,000 towards a sustainable cycle scheme on Coventry Road.

**Warwickshire Police:** No objection.

**South Warwickshire Foundation Trust:** No objection.

**WCC Landscape:** Objection, there needs to be a strong landscaped road frontage that includes additional replacement tree planting to soften the impact of the new development; all trees removed should be replaced. The applicant should consider reducing the overall number of units to increase the areas of soft landscaping.

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

**Infrastructure:** No objection, subject to the provision of £3,004 towards the improvement of library facilities and the provision of sustainable travel packs.

**Conservation Area Forum (CAF):** Whilst supportive of the principle of the development, CAF considers that the proposal does not contribute towards the Canal Conservation Area and fails to preserve or enhance its appearance and character. The proposal is not reminiscent of canal side industrial architecture and greater connectivity is required between the proposed elevations and the canal, with more landscaping and larger gardens to reduce the sense of condensed urbanisation.

**Canal and River Trust:** Concern expressed regarding the impact on future of Kate's Boatyard if noise complaints were made regarding their operations; a greater degree of engagement between the canal and residential properties would allow residents to take advantage of the views of the canal; tree protection measures are welcome and queries whether there may be pressure to remove some of the trees to be retained in the future from residents; requests conditions for method statement and relating to land contamination and information relating to drainage.

**Public Responses:**

11 Objections: the impact on nearby residential parking areas; disputes the findings of the traffic report (vehicles queuing to access Coventry Road from Nelson Lane and the number of bus routes); pedestrian safety; additional traffic generated by the proposal; Nelson Lane is for business use; no outdoor space provided for children to play in.

5 Support: this is a great way to regenerate a redundant area, creating benefit and enhancement; enhancement of the Canal Conservation Area; it would reduce traffic and HGV movements on Nelson Lane, providing a benefit to local residents and road users; it would open up many jobs and homes to local residents, with economic benefits.

Chairman of the Lillington Free Church Development Committee: Supports application. The applicant recently built the new church and community hall to a very high standard and in return provided land for 100% affordable housing which is much needed for the community.

## **ASSESSMENT**

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

- the principle of the development;
- residential amenity and impact on adjacent industrial use;
- the impact on the character of the area and the Conservation Area;
- car parking and highway safety;
- waste;
- housing mix;
- affordable housing and section 106 contributions;
- the impact on trees;
- drainage and flood risk;
- ecological impact; and
- other matters.

### Principle of Development

The site currently comprises employment land. Local Plan policy EC3 states that outside of town centres, the redevelopment or change of use of existing employment land for other uses will not be permitted unless one (or more) of five criteria are met. One of these criteria (point e) is if the proposal is solely for affordable housing as defined in national guidance.

The proposed development is for 100% affordable housing as defined in national guidance. Therefore, the proposal would be in accordance with the requirements of Local Plan policy EC3 and the principle of the development would be acceptable.

### Residential Amenity and Impact on the adjacent Industrial Use

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 visual intrusion. The Residential Design Guide provides a framework for policy BE3, which 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.

#### *Relationship to existing residential properties*

Under the previous scheme refused in 2017 there was concern about the relationship of the proposed development and the existing flats to the west of the site. There was a substandard distance separation between the existing building and the proposed development, detrimentally impacting on the living conditions of the occupiers of the neighbouring property.

The current proposal has reduced the number of units from the previous scheme. There would be no 45 degree conflict from any existing residential property and there is a distance separation of 12 metres from windows serving the neighbouring residential property to a two storey gable. Although there would be windows in the gable, these can be conditioned to be permanently obscure glazed and non-opening without hindering the living conditions of the future occupiers, thus essentially providing a blank gable. This would therefore meet the Council's distance separation guidance for this relationship.

Other existing residential properties along Cliffe Way are over 28 metres away from the proposed development and have a side to front facing relationship, meaning that there is ample distance separation between the properties.

Environmental Health recommend a condition for the provision of a construction management plan to control the impact of construction works on existing properties which could be added if the application were being approved.

The development is therefore considered to have an acceptable impact on neighbouring residential amenity.

#### *Proposed Living Conditions for the Future Occupiers*

The applicant has provided a noise assessment in support of the application and subsequent technical notes relating to the likely impacts of noise on the future occupiers of the development at the request of Environmental Health Officers. Environmental Health Officers have expressed concerns relating to the impact of road noise on the future occupiers, the neighbouring industrial site run by Kate's Boats and the internal layout of the proposed development.

There is a boatyard which operates next to the application site, with a "boat building" which is located immediately in front of the application site on the canal, which is used for boat repairs. Environmental Health classify the activities associated with this use as "industrial noise sources", which include mechanical grinding, reversing alarms, clatter and bangs, and manoeuvring vehicles. These types of incidents are more likely to create noise disturbance and complaint as opposed to the noise from a passing canal boat. The NPPF states that planning policies and decisions should ensure that new development can be integrated effectively with existing businesses. Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

The applicant carried out a noise assessment of the likely impact of the activities associated with the boat building on the future occupiers of the proposed development. Environmental Health note that according to the noise report, the boat grinding was 51dB  $L_{Aeq,5}$  mins at a distance of 40 metres from the source. The proposed gardens and dwellings are closer to the boat yard than 40 metres, therefore Environmental Health anticipate that these noise levels would increase further as you get closer to the noise source. Environmental Health consider that the boatyard not operating at night or weekends does not provide sufficient justification for the development as future residents should be entitled and expected to use their gardens during the day time without disturbance. They state that a 20 minute sample obtained from a single week of measurement cannot be used as an indicator for the business's working pattern. There are no restrictions on the business to prevent evening or weekend working, or to prevent them from increasing their working hours during the day time. Environmental Health therefore stated that a comprehensive noise report to demonstrate to the contrary was required in order to remove their objection.

The applicant carried out additional noise surveys which Environmental Health assessed. They concluded that the noise assessment appears to have made various amendments to the BS4142:2014 calculations to make the results more favourable. For example, the assessment appears to have utilised an 'on time' of five minutes over a one hour period for the grinding/sanding activities. Environmental Health consider that it seems unrealistic that the adjacent boat yard will typically use grinding equipment for only five minutes before stopping entirely within a one hour period. Narrow boats are large structures and Environmental Health anticipate that grinding could occur for much longer periods of time. There are no restrictions on the boat yard in terms of working hours and therefore this equipment could run for prolonged lengths of time. By increasing the 'on time' of the grinding plant to a full hour as per the BS4124:2014 method, the calculated noise impacts are likely to be even more significant than stated.

The assessment also seems to have utilised Plot 14, however, the gardens of Plots 16, 20, and 21 appear to be much closer to the rear of the boat building where the boat maintenance plant is currently operated. Whilst the differences in distances are unlikely to significantly affect the results, it will still have some impact on the final calculations. Similarly the distance of the attended measurement position from the boat yard to the sound level meter also seems to have increased by an additional five metres since the previous noise assessment. Even with these disagreed adjustments, the noise assessment identifies that the noise levels would be +4dB above the background level. The BS4142:2014 standard says that a difference of around +5 dB is likely to be an indication of an adverse impact, depending on the context.

Given that Environmental Health do not agree with the adjustments made to the latest BS4142:2014 calculations and the likelihood that the resultant sound levels will be even higher than those already calculated, they maintain their objection to the proposed development. Environmental Health confirm that significant noise impacts are likely. The applicant has not amended the noise assessment in accordance with Environmental Health's comments who anticipate that this is not being done as it would confirm their concerns. The noise would impact on the use of the proposed residential gardens as there is no way to readily mitigate this.

The applicant has amended the development to include a 2.2 metre high brick wall adjacent to the properties which would be most affected (behind plots 11 - 22), to separate the rear gardens and the boat building. However, there has been no assessment to indicate what impact the wall would have on the noise environment within the gardens of the other nearby properties. Also, there has been no evaluation on whether plots 1 - 10 would experience acceptable noise conditions.

The applicant contends that they have demonstrated there will be at worst case an 'adverse effect' on residents in their gardens. The applicant considers that the Environmental Health Officer's view that there would be a significant adverse impact is based upon there being an intensification of the existing Kates Boats use to a frequency of grinding/sanding of the boats at 20 minutes in every hour during the day. The applicant considers that based upon the noise surveys undertaken (30 minutes during a period of one week this summer, and 2 minutes and 20 seconds over a period of one day last September), this is a significant increase from the current operations. The applicant states that were such an intensification to occur, it could amount to a material change of use of the property from its existing use. The applicant notes that Kates Boats support the application.

However, Officers disagree with this view. A change of use of this nature would be determined on a judgement basis, depending on the extent of the intensification and whether this fell outside of the lawful use of the site. The established activities are a lawful historic use and Officers would need to understand the occupier's current business model and how the site is used, then take a view on what the established use is and if further activity fell outside of this. Officers do not therefore agree that this would therefore prevent any intensification of the site to an extent which would be harmful which could not be controlled. Furthermore, just because the current owner supports the proposal, this doesn't limit the impact, or provide any control over any future activity at the site, either by them, or another occupier.

The applicant concludes that there is no further mitigation that can be undertaken, other than turning the properties to face the canal and have gardens to the rear which would result in the loss of frontage onto Nelson Lane which would be unacceptable in design terms and also raise highway considerations.

These substandard living conditions are further exacerbated by the lack of adequate private amenity space provided for the proposed development; all of the proposed gardens are substandard in terms of the requirements of the Residential Design Guide for private amenity areas, however, those positioned most closely to the boat building are the smallest of the development. The required minimum garden size for 3 bedroom properties is 50sqm. However, the gardens serving plots 11 - 16 range between 14sqm and 25sqm, which in the majority of cases is less than half the required size. Plots 17 - 22 have gardens between 17sqm and 32sqm. Again, many of these are immediately adjacent to the boat building. Plots 1 - 4 range between 31sqm and 50sqm, however, these gardens are overlooked from the canal towpath because of the open boundary treatment, so are not 'private'. Furthermore, none of the flats have access to any areas of private amenity space.

Officers recognise that the Residential Design Guide states that "provision of amenity space and gardens must be set within the context of ensuring that the inefficient use of land is avoided. Therefore in situations where the standards cannot be achieved e.g. high density housing developments the Council will seek

to work jointly in agreement with developers to provide an upgrade to nearby off site amenity space which will be available to the general public."

The applicant considers that reducing the number of units to accommodate the required sizes would therefore represent an inefficient use of land. Officers disagree with this conclusion. Officers are not seeking to reduce the number of units to reduce the density of the development, but are more importantly seeking adequate living conditions for the future occupiers of the development. A garden size of 14sqm for the use of a 3 bedroom property is considered to provide seriously substandard living conditions.

In many of the cases with the properties closes to the boat building who would be most affected in their garden areas, there is no relief from the potentially noisy neighbouring site, other than a high level brick wall, which further oppresses the already inadequate gardens. Furthermore, for plots 11 - 16, the high level brick wall which is positioned at the rear of these properties would also provide little outlook for the ground floor rear facing habitable rooms serving these properties. For these dwellings, there would be an outlook of between 3.6m and 5.9m from the windows to the brick wall, which is very constrained and likely to be oppressive. Whilst Officers recognise that there are opportunities to compromise from the standards set out in the Residential Design Guide, the proposed gardens and their likely noise environments simply provide a poor quality living environment which cannot be mitigated.

Environmental Health Officers also note that the layout of the proposed dwellings has been designed in such a way that the habitable rooms would all face towards the main noise sources i.e. the bedrooms and living rooms of the properties on Nelson Lane all look out onto the road at the south of the site, and the bedrooms and livings rooms look out onto the canal/boat yard at the north of the site. In the view of Environmental Health Officers, this does not represent good acoustic design.

Therefore, the proposed development is considered to provide substandard living conditions for the future occupiers of the dwellings.

#### *Impact on an existing industrial use*

The proposal could also likely lead to complaints being made against an existing lawful neighbouring business and whilst the current occupiers do not object to the proposal, this does not maintain any control over their future activities, or from another occupier taking over the site and increasing their operations. This would adversely impact on the continuing operation of the business (or any future business) and could ultimately lead to the business closing or residents having to endure excessive levels of commercial noise if the business demonstrated best practicable means. These concerns have also expressed by the Canal and River Trust who own the site occupied by Kate's Boats.

The proposal is therefore considered to be contrary to the NPPF and Local Plan policy BE3.

#### Impact on the Character of the Area and the Conservation Area

The National Planning Policy Framework (NPPF) places significant weight on ensuring good design which is a key aspect of sustainable development and should

positively contribute towards making places better for people. The NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving character, the quality of an area and the way it functions. Furthermore, Warwick District Council's Local Plan 2011 - 2029 policy BE1 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. Finally, the Residential Design Guide sets out steps which must be followed in order to achieve good design in terms of the impact on the local area; the importance of respecting existing important features; respecting the surrounding buildings and using the right materials.

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

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

Supporters of the proposal consider that the development would lead to an enhancement of the Conservation Area.

The existing site consists of a traditional industrial building, with little architectural merit, with the main building being a fairly long rectangular structure, and a smaller detached section towards the west. The property is however of its time and sits comfortably within the industrial context of the canal setting, thus causing no harm to the setting of the Conservation Area. The Conservation Officer notes that this particular length, as explained in character length 3 in the Canal Conservation Area appraisal, is predominantly characterised by a mixture of late twentieth-century buildings and industrial structures dating from between the late eighteenth to late nineteenth-century, the earliest of which (the Bridge House) is Grade II Listed dating from 1781 to the west. The most notable structure near to the site however is the wharf building and its industrial character and form contributes towards the overall appearance and character of the Conservation Area. Its setting should therefore be preserved as much as possible. Industrial architecture is characterised by prominent built form with consistent, horizontally running frontages and well-proportioned symmetrical window and door apertures, with features including arches, chimneys and wide gables.

The wider area to the south is characterised by residential properties of varied design, with a mixed palette of materials and residential properties to the west. To the east is further industrial development and to the north (across the canal) is the WCC depot and Ridgeway School, where planning permission was recently refused for the residential development of the site.

Initially, the Conservation Officer had concerns regarding the proposed design, he noted that the development appeared very residential and domesticated, with pitched half dormers and sloping roof, and not reflecting the typical industrial characteristics associated with the canal side and waterways. Greater horizontal emphasis was recommended across the Grand Union canal elevation as a whole, with more infilling between residential blocks and proper alignment and better consistency of window and door openings. The pitched dormers were considered to be incongruous and the Conservation Officer recommended that divergence from townhouse characteristics was needed.

The Conservation Officer also stated that the proposed boundary treatments were too solid (brick and timber) and it is important for this area to retain openness and achieve greater connectivity with blocks of development, which can be achieved via boundaries of a less solid nature with a greater degree of landscaping. Concern was also raised in relation to the materials proposed, in that the use of uPVC for windows and rain water goods is not supported in Conservation Areas, nor is concrete for roofing material. Cladding was also not considered appropriate for the location, not being characteristic with the canalside.

The applicant has worked with the Conservation Officer to establish an acceptable form of design. The scheme has been amended to take on board the Conservation Officers recommendations above and he now has no objection to the proposal, noting that the boundary treatments to blocks 1-10 (railings and planting) retain a degree of openness and interconnectivity with the canal side. The Conservation Officer however does have concerns in relation to the impact of the 2.2m high brick wall of plots 11-19 on the canal side and Conservation Area, although the reasons for this following the Environmental Health Officer's comments are noted. He concludes that when considering the scheme as a whole, any harm arising from this element is considered to be less than substantial; the combination of the design proposed and boundary treatments for blocks 1-10 facing the canal suitably mitigates the impact of a hard boundary to blocks 11-19, particularly with the input of blue brick detailing and coping, to an extent that he consider that the proposal preserves the appearance and character of the Conservation Area.

The Conservation Officer recommends that in the event of an approval, conditions are attached which secure the provision of sample materials for all boundary treatments, in addition to all facing materials and large scale details of doors and windows. These could be added if the application were recommended for approval.

WCC Landscape consider that there should be a strong landscaped road frontage that includes additional replacement tree planting to soften the impact of the new development along Nelson Lane and that all trees removed should be replaced. However, Nelson Lane is generally characterised by much hard landscaping, with built form sitting nearby or adjacent to the road frontage. It is not considered that additional tree planting adjacent to Nelson Lane would be characteristic or necessary in this particular location. The trees of highest importance which add value to the Conservation Area next to the canal are retained.

Therefore, although use of hard boundary treatments would cause a low level of harm, there would also be benefits to the scheme, through provision of appropriately designed built form and layout which outweighs the harm. The provision of affordable housing would also represent a significant material public benefit of the scheme. Therefore, the low level of harm is balanced by the high

quality design of the scheme as a whole which responds well to the Canal Conservation Area and Nelson Lane, thus leading to the development being considered to preserve the character and appearance of the Conservation Area.

The scheme is considered to accord with the NPPF and Local Plan Policies, BE1, HE1 and HE2.

#### Car parking and highway safety

Members of the public have objected to the proposed development for the following reasons: impact on nearby residential parking areas; disputes findings of the traffic report (vehicles queuing to access Coventry Road from Nelson Lane and number of bus routes); pedestrian safety; and, the additional traffic generated by the proposal.

Initially, WCC Highways objected to the proposal owing to a lack of assessment on the wider traffic network and lack of clarity regarding tracking information of refuse vehicles. The applicant submitted an additional technical note and entered into discussion with WCC Highways. It was agreed that £15,000 could be provided towards a sustainable cycle scheme on Coventry Road. Further information on the tracking for large refuse vehicles was also provided. This information has satisfied the concerns of WCC Highways who now have no objection to the proposed development, subject to conditions and the aforementioned financial contribution, which could be secured by a Section 106 agreement.

The proposed development provides sufficient parking in accordance with the Council's Vehicle Parking Standards guidance. It should be noted that some of the parking is accommodated within car ports which are located underneath flats fronting onto Nelson Lane. These meet the Council's size requirements and are not counted as garages in this instance. Separate secure cycle storage is provided for residents.

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

#### Waste

Sufficient waste storage has been provided within the site boundaries and waste management have no objection to the proposed development.

#### Housing mix

The NPPF states that local planning authorities should plan for a mix of housing, based on current and demographic trends, market trends and the needs of different groups in the community. It goes on to state that local planning authorities should identify the size, type, tenure and range of housing that is required in different locations. In accordance with these requirements, the Council has adopted development management policy guidance on "Provision of a Mix of Housing (June 2018)".

The housing proposed in the current planning application comprises: 19% 1 bedroom apartments, 39% 2 bedroom apartments and 42% 3 bedroom houses. The housing mix requirements are: 30-35% 1 bedroom properties, 25-30% two

bedroom properties, 30 - 35% three bedroom properties and 5-10% four bedroom properties.

Given the constraints of the site, it is considered that this represents a reasonable mix of dwellings when compared against the Council's guidance. Furthermore, this is for a solely affordable housing scheme which the Council's Housing Team support including in respect of that mix. The Housing Team note that as the current scheme is going to be 100% affordable and will be funded in part by Homes England grant, they recognise that there will be a need for flexibility around our standard requirements, particularly given the constraints on the site.

Therefore the proposals are considered to be in accordance with the NPPF and Local Plan policy H4.

#### Affordable housing and section 106 contributions

The proposed development of 31 dwellings would create additional demand for local services and to mitigate this, contributions towards community facilities would be required.

This is a proposal for 100% affordable housing. If the application were being recommended for approval, all of the affordable housing would need to be secured in perpetuity as such through a planning condition.

Having considered the available evidence, the contributions are considered to be in accordance with Regulation 122 of the Community Infrastructure Levy Regulations 2010. A development of 31 dwellings on this site would have a material impact on or need for affordable housing, education, open space, health care, sports facilities, monitoring costs, and rights of way, employment/training for locals and highway matters.

This is a particular issue given the cumulative impact that is expected from the substantial level of housing growth proposed across the District. It is reasonable to expect a development of this size to contribute towards the additional costs associated with meeting these increased demands. The relevant consultees are currently seeking to identify specific projects and locations where this money would be spent. Therefore it is considered that appropriate contributions are necessary to make the development acceptable in planning terms and subject to being directly related to the development, are fairly and reasonably related in scale and kind to the development (as required by Regulation 122).

The necessary contributions identified could be secured through an appropriate Section 106 Legal Agreement. At the time of writing, the following requests have been received;

- Outdoor sports facilities – £2,203 towards the improvement of outdoor artificial sports facilities and £9,559 towards the improvement of grass pitches.
- Indoor sports facilities – £25,697
- Highway infrastructure – £15,000 towards a sustainable cycle scheme on Coventry Road.
- Libraries – £3,004
- Sustainable travel packs – £2,325
- Public open space – £160,704 towards the improvement of local open spaces.

- Public rights of way – £936
- Affordable housing – 100%
- Monitoring fee - £3,171

Whilst the applicant has verbally agreed to the above costs, there has been no Section 106 agreement drawn up to secure these matters (at the request of the applicant). Therefore, as the contributions have not been secured, the development could lead to an unacceptable impact on local services. This is considered to be contrary to Local Plan policies DM1 and HS4.

### Open Space

The additional residents brought into the area by this application will put more pressure upon existing open space, both in the locality and the wider district in relation to destination parks. There is no open space provided within the site boundaries and owing to the constrained nature of the site, this would not be possible. As set out in HS4 of the Local Plan, a contribution is therefore required in order to mitigate the impact of this additional use. The contribution rates are set out in the subsequent 'Open Space Supplementary Planning Document'.

The Council's Open Space team identify that the required contribution would be £160,704. This would be put toward the development objectives of Priory Park in Warwick, relating specifically to path improvements.

Priory Park scored only 'average' in a number of aspects in the latest Parks Audit (2016). The Green Space Strategy sets out the objective of having our public open spaces rated as 'good' or better. At the time of responding, there are only two S106 agreements assigned to various projects within the park.

As stated above, as a Section 106 agreement has not been agreed, this means that the financial contribution requested by Open Space is not secured. The development is therefore contrary to Local Plan policy HS4.

### Impact on trees

There are no existing trees of value within the site as evidenced within the Arboricultural Report. However, the majority of the street trees on Nelsons Lane are to be protected, and there are opportunities within the proposed layout to incorporate some new planting to mitigate for the loss of trees.

The Canal and River Trust welcome the fact that the trees to the north east boundary will be protected, but request that Officers consider whether there would be increased pressure for their removal as a result of the proposed development. The Tree Officer has been consulted and has no objection to the proposal, subject to the tree protection measures being implemented in accordance with the tree report submitted. He raises no concern in relation to pressure to remove the trees from new residential properties.

It is therefore considered that adequate tree protection measures could be secured by condition.

### Drainage and flood risk

The application site is located within Flood Zone 1. Initially, the Local Lead Flood Authority (LLFA) objected to the proposed development because the Flood Risk Assessment which was provided in support of the application did not comply with the requirements set out in the NPPF. This was then updated by the applicant. The LLFA now have no objection to the proposed development, subject to conditions. These could be added if the application were being approved.

The Environment Agency also have no objection to the proposal.

The proposal is considered to be in accordance with Local Plan policies FW1 and FW2.

#### Ecological impact

A Preliminary Ecological Appraisal and Bat Survey were submitted with the application. The County Ecologist has accepted the findings of the Ecological Appraisal and Bat Survey and has advised that any ecological issues can be dealt with by conditions and advisory notes. Therefore it has been concluded that the proposals would have an acceptable ecological impact.

The development is considered to be in accordance with Local Plan policy NE2.

#### Other matters

Environmental Health Officers advise that a condition should be attached for the provision of a contaminated land survey. This is considered to be reasonable and necessary, and could be added if the application were being approved.

Warwick District Council has adopted an Air Quality Supplementary Planning Document (SPD). The SPD establishes the principle of Warwick District as an emission reduction area and requires developers to use reasonable endeavours to minimise emissions and, where necessary, offset the impact of development on the environment. The guidance sets out a range of locally specific measures to be used to minimise and/or offset the emissions from new development, however these are suggestions and other innovative ideas are encouraged. This mitigation could be secured by condition if the application were being approved.

The Canal and River Trust also request that if the development were allowed, that a condition was attached for the provision of a method statement for the construction of plots 1 - 22 inclusive, to ensure that the works did not have a detrimental impact on the stability and structural integrity of the canal. This is considered to be reasonable and could be added if the application were being approved.

### **CONCLUSION**

There are material planning benefits identified as a result of the proposed development, including the provision of 31 affordable housing units, and provision of economic benefits such as employment opportunities and increased spending from future residents within the District.

Conversely, Officers identify that the level of amenity for the future occupiers is extremely poor and would cause a substantial level of harm. The proposed garden sizes alone are sufficiently substandard which would warrant reason for refusal.

However, this combined with the fact that the occupiers would then be subject to unacceptable noise disruption, further emphasises the harm caused. Moreover, the layout of the proposed dwellings also further compounds the substandard living conditions. This also could preclude a lawful business from operating through noise complaints to the Council. Officers consider that the delivery of affordable housing should not be at the cost of acceptable living conditions. Officers also have concerns that approving such substandard living conditions could set a harmful precedent for future housing development more widely.

Therefore, on balance, it is not considered that the provision of 31 affordable housing units outweighs the substandard living conditions provided by the proposed development. It is recommended that planning permission is refused on this basis.

## **REFUSAL REASONS**

- 1 Policy BE3 of the Warwick District Local Plan 2011-2029 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 visual intrusion.

It has not been demonstrated that the proposed development would provide an acceptable noise environment for the future occupiers of the dwellings. It is likely that an existing neighbouring industrial use would cause undue noise disturbance for the future occupiers of the properties. Furthermore, this is exacerbated by the substandard private amenity spaces provided across the site, none of which meet the requirements of the Council's adopted Residential Design Guide and in many cases are not provided at all. In relation to plots 11 - 16, a high level brick wall which is positioned at the rear of these properties would also provide a very constrained outlook for the ground floor rear facing habitable rooms serving these properties. Finally, the layout of the proposed dwellings represents poor acoustic design, with the habitable rooms being located closest to potential noise sources, including traffic from Nelson Lane and industrial activities from the adjacent boat yard.

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

- 2 Paragraph 182 of the NPPF states that planning policies and decisions should ensure that new development can be integrated effectively with existing businesses. Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

It has not been demonstrated that the proposal would not lead to unreasonable restrictions being placed on an existing business adjacent to the application site as a result of legitimate noise complaints which would likely be generated by the future occupiers of the development owing to the proximity of the proposed dwellings to industrial activity.

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

- 3 The application proposes the erection of a significant number of new dwellings and this would place significant pressure on local services. A development of this size would require significant additional capacity in terms of highways improvements, need for sustainable travel packs, public rights of way improvements, library facilities, open space and indoor and outdoor sports facilities. No Unilateral Undertaking or Section 106 agreement has been submitted to secure contributions towards these facilities. Therefore, in the opinion of the Local Planning Authority, the application makes insufficient provision for the increased capacity in local services that will be required to serve the proposed development.

The proposal is therefore considered to be contrary to the Policies HS4 and DM1 of the Warwick District Local Plan 2011 - 2029.

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