

Planning Committee: 08 November 2022

Item Number: 8

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

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

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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.
