

Planning Committee: 23 June 2021

Item Number: 5

Application No: [W 20 / 1975](#)

Town/Parish Council: Kenilworth

Case Officer: Jonathan Gentry

01926 456541 jonathan.gentry@warwickdc.gov.uk

Registration Date: 29/03/21

Expiry Date: 24/05/21

6 Lower Ladies Hills, Kenilworth, CV8 2GN

Formation of driveway (part retrospective application) FOR Mr Robins

This application is being presented to Planning Committee because more than 5 support comments have been received.

RECOMMENDATION

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

DETAILS OF THE DEVELOPMENT

Part retrospective planning permission is sought for the formation of a driveway with associated landscaping, fencing and EV charge point.

Having conducted a site visit it is clear that the majority of the works have been substantially completed on site, particularly noting the hardstanding parking area which is in situ. These works have involved the removal of vegetation planted adjacent to the pavement at the southern boundary of the garden, earthworks to re-profile the garden in order to accommodate the parking area and erection of boundary fencing. The driveway area is accessed from the north by brick steps that reach the lawned area of the garden.

THE SITE AND ITS LOCATION

The application property and it's curtilage, including the land area subject of this application, is located within Area 13 of the Kenilworth Conservation Area. The street is characterised by a series of long narrow Victorian allotment gardens on sloping ground located to the front of a series of traditional terraced properties.

The application site is located in close proximity to the Odibourne Allotments, which is regarded within the Kenilworth Neighbourhood Plan as an important area of open space within the flood plain.

RELEVANT PLANNING HISTORY

W/20/1077 - A planning application for comparable development including the construction of a driveway area at the neighbouring property, No.4 Lower Ladies Hill - Refused, for the following reasons:

1. *Warwick District Local Plan Policy TR1 states that development will only be permitted that provides safe, suitable and attractive access routes for pedestrians, cyclists and users of motor vehicles. Proposals will be expected to demonstrate that they are not detrimental to highway safety. The creation of an access in the proposed location on Manor Road would lead to an increase in reversing vehicle movements adjacent to the junction with Tainters Hill. Vehicle speeds at the southern boundary of the application site are close to the posted speed limit of 30 Mph, and such manoeuvres in this location would have safety implications for other road users. Furthermore, it is considered that the proposal does not provide sufficient inter-visibility between drivers and pedestrians, which poses highway and pedestrian safety concerns. The development is thereby considered to be contrary to the aforementioned policy.*
2. *Local Plan Policy NE4 states that new development will be permitted that positively contributes to landscape character. Proposals are expected demonstrate that they avoid detrimental effects on features which make a significant contribution to the character, history and setting of an asset or area. The purpose of this policy is to ensure that significant landscape features are protected from harm. When out on site, Officers were able to observe that there were a number of trees within the application site and adjacent gardens, both mature and juvenile. A tree survey has not been submitted by the applicant, it is therefore considered that inadequate information has been submitted in order to assess whether any important features of the landscape will be lost or harmed by the proposed development. The proposal is therefore considered contrary to Policy NE4.*

RELEVANT POLICIES

- National Planning Policy Framework
- Warwick District Local Plan 2011-2029
- BE1 - Layout and Design
- BE3 - Amenity
- HE1 - Protection of Statutory Heritage Assets
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- TR3 - Parking
- TR1 - Access and Choice
- Guidance Documents
- Parking Standards (Supplementary Planning Document)
- Kenilworth Neighbourhood Plan (2017-2019)
- KP12 - Parking Standards
- KP13P - Design Management in Lower Ladyes Hill and The Oldbourne Allotments

SUMMARY OF REPRESENTATIONS

Kenilworth Town Council - Members object to the application on the basis of the creation of a new access for driveway area, citing implications to highway safety.

WCC Highways - Object to the application on the basis of the creation of a new road access to Manor Road, and resultant highway safety implications. In addition, the proposal would not provide for sufficient inter-visibility between drivers and pedestrians.

WDC Conservation and Design - While concern is raised with regards to loss of the traditional terrace and gardens fronting the application site, no objection to the proposal is raised on the basis of a clear precedent for comparable works being set at nearby No.1 Lower Ladyes Hill.

Public Response -

15 support comments have been received on the following grounds:

- Works to the garden do not result in harm to the Conservation Area and have not harmed the Victorian landscape character of the area.
- Work carried out is to a high standard and in keeping with surrounding area.
- Lack of existing parking capacity on Lower Ladyes Hills, and resultant highways safety concerns
- The parking space accessed from Manor Road does not result in highway safety issue beyond what could reasonably be expected on the road.
- WCC Highways response does not consider existing driveway access to Manor Road, and kerb parking.
- Works have improved the garden and boundary to manor road.
- EV Charging Point should be encouraged in line with climate agenda.

2 neutral comments have been submitted raising the following points:

- Do not view off road parking space as any more dangerous than parked vehicles on Manor Road.
- Removal of hedgerow facing manor road should be carefully considered, alongside reinstating the previous layout/landscaping.
- No provision has been made for the supporting infrastructure for EV Charge Point.
- Use of gravel boards as retaining walls should be considered by a structural consultant.

6 objections have been received on the following grounds:

- The works have resulted in significant visual harm to the street scene and Conservation Area and are out of character with the area.
- The works do not respect the historical significance of the area, and result in a loss to the Victorian allotment layout of this site.
- The works have resulted in the loss of a significant range of planting to the boundary with Manor Road.
- Hedging and banking that has been removed should be reinstated.
- Allowing this application would set a clear precedent for the creation of parking spaces within adjacent gardens facing Manor Road.
- The parking space created has an extremely limited visibility splay, and opens onto a busy road, resulting in a highways safety issue.
- No indication of how supporting infrastructure for EV Charge Point would be provided has been submitted.

ASSESSMENT

Design and Impact on the Conservation Area

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.

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. Paragraph 196 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 echoes the requirements of the NPPF in terms of assessing the impacts on heritage assets. 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 the Conservation Area. Proposals must not result in harm to the historic and architectural significance of the Conservation Area unless the harm identified is outweighed by public benefits.

Local Plan Policy HE2 supports HE1 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.

Local Plan Policy BE1 states that new development will be permitted where it positively contributes to the character and quality of its environment through good layout and design. Development proposals should demonstrate that they harmonise with, or enhance, the existing settlement in terms of physical form so that the established character of the street scene is respected. In order to do this development should relate well to landscape features, reinforce or enhance the established urban character of streets and reflect, respect and reinforce local architectural and historical distinctiveness.

Finally, Kenilworth Neighbourhood Plan Policy KP13 states that development proposals should achieve a standard of design that is appropriate for the local area and demonstrate a positive response to the site's characteristics and surroundings. More specifically to proposals located within the Conservation Area, the policy requires heritage assets and their settings to be respected in accordance with their significance. Proposals must assess and address the guidance provided within the Kenilworth Conservation Areas Design Guide. The application site is located within Area 14 of this guidance, noted for comprising the historically significant allotment site and a variety of houses, including Victorian terraces with original detailing.

Following consultation, the Conservation Officer has raised no objection to the proposed development. While it was assessed that the works had visually detracted from the well preserved terrace and gardens, the established precedent

of works to No.1, which has included the erection of comparable fencing panels to the corner plot of the terrace area was noted.

As a result of its urbanising form, and the removal of extensive boundary planting to the southern boundary of the garden in order to facilitate its construction, Officers view that the driveway area as constructed does impact on the character of the gardens through the introduction of fencing and hardstanding, and through the removal of vegetation screening.

However, consideration is given to the recently erected boundary fencing of comparable design to that located here, sited at the junction between Tainters Hill and Manor Road at No.1. This development was assessed by the LPA's Enforcement team who reached the conclusion that the works were non-expedient to pursue, given they only marginally exceeded what could be carried out under permitted development. Given the highly visible character and position of these nearby works, Officers view that a notable degree of the traditional, planting led character of the terraced gardens has been eroded. As such, this element of the retrospective scheme is considered acceptable in design terms.

Officers also note the large hardstanding parking area of the adjacent Manor Court to the east of the application site, and the tall hard boundary treatment to Nos.1 – 8 Manor Terrace beyond. Therefore, while a notable area of earth banking and planting remains to the west of the site, the hardstanding parking area is not considered to constitute an incongruous feature out of character with the established street scene of Manor Road.

The majority of public consultation representations received note the impact of the development on the Conservation Area. Assessment of this retrospective scheme reflects that applied at neighbouring No.4 as follows. Whilst the gardens may be unique, they have not been afforded any further protection other than being located within the conservation area, suggesting that the gardens themselves are not of particular historic merit. Notably, the Kenilworth Neighbourhood Plan does not specifically mention these gardens within the character appraisal for Lower Ladyes Hills under Policy KP13P and instead focuses attention on the importance of the Odibourne Allotments as the significant historical feature. The gardens are also not mentioned in the Kenilworth Conservation Areas Design Guide either. Policy KP13P states that any future development within the conservation area should maintain the street scene and have regard for its originality within the Town. Policy KP13 requires development to demonstrate a positive response to the site's characteristics and surroundings. As previously noted, hard boundary treatments already contribute to the character of Manor Road and the wider conservation area and therefore it is considered that the proposal will have an acceptable impact on the conservation area.

The proposal is therefore considered to comply with the NPPF, Policies BE1, HE1 and HE2 of the Local Plan and Policies KP13 and KP13P of the Neighbourhood Plan in design terms.

Impact on the amenity of neighbouring uses

Warwick District 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. Kenilworth Neighbourhood Development Plan (KNDP) Policy KP13 states that the impact on the residential amenity of existing residents must be assessed and addressed.

By virtue of the fact that the development is located a significant distance from surrounding dwellings, it is considered that the proposal does not negatively impact upon the amenity of any neighbours or the current and future occupiers of the subject property.

The proposal is therefore considered to accord with Local Plan Policy BE3 and KNDP Policy KP13 in residential amenity terms.

Highway Safety

Warwick District Local Plan Policy TR1 states that development will only be permitted that provides safe, suitable and attractive access routes for pedestrians, cyclists and users of motor vehicles. Proposals will be expected to demonstrate that they are not detrimental to highway safety.

The County Council as the Local Highway Authority has raised an objection to the application, citing concerns related to highway and pedestrian safety. It is considered that the creation of an access in the proposed location on Manor Road would lead to an increase in reversing vehicular movements adjacent to the junction with nearby Tainters Hill. The Highway Officer has noted that vehicle speeds at the southern boundary of the application site are close to the posted speed limit of 30 MPH and therefore such manoeuvres in this location would have safety implications for other road users.

Furthermore, it is considered that the proposal does not provide sufficient inter-visibility between drivers and pedestrians, thus similar concerns over the safety of the proposal are raised.

The concerns raised by the Highway Officer are shared by Kenilworth Town Council, several neighbours as well as Planning Officers.

Based on the above it is considered that the proposal fails to comply with the criterion of Policy TR1 and is recommended for refusal on this basis.

Parking

Warwick District Local Plan Policy TR3 states that development will only be permitted that makes provision for parking which does not result in on-street car parking detrimental to highway safety. Development will be expected to comply with the parking standards set out in the Warwick District Council Parking Standards SPD.

Kenilworth Neighbourhood Plan Policy KP12 states that development proposals should incorporate parking and cycle spaces at or above the numerical and design expectations set out in the Parking Standards. Where unallocated spaces are to be provided on the road, in the interest of accessibility and safety, the policy requires the road design to accommodate these in accordance with Parking SPD.

A large volume of the submitted neighbour consultation responses submitted in support of the application highlight the congestion and parking issues faced along Lower Ladyes Hills. While objection comments received dispute this matter, Officers do note that in general terms, parking provision is notably constrained along this section Lower Ladyes Hills, and largely limited to on-street capacity.

The proposal through the creation of an additional off-street parking space, is not considered to result in any worsening of the current parking situation to Lower Ladyes Hills or Manor Road, on which vehicles are also permitted to park, and would result in a reduction, albeit minor to parking demand along these roads. The submitted scheme also proposes the installation of an EV Charge Point within the created parking space.

It is therefore considered that the proposed development would not result in the creation of additional parking demand or provision requirement that could be considered harmful. The proposal is considered to comply with Policies TR3 and KP12.

Ecology

Local Plan Policy NE2 seeks to protect species of national and local importance for biodiversity and geodiversity. The policy stipulates that development will not be permitted that will destroy or adversely affect protected species. In addition, Local Plan Policy NE4 states that development proposals are expected demonstrate that they avoid detrimental effects on features which make a significant contribution to the character, history and setting of an asset or area. The purpose of this policy is to ensure that significant landscape features are protected from harm.

It is however noted that the works to create the parking space and associated area has resulted in the removal of an area of hedgerow spanning a distance of approximately 3.5 metres at the southern boundary of the site. However, this in itself does not require planning permission. The Ecologist at Warwickshire County Council has not commented on the application as submitted.

Overall, it is considered that the proposal is acceptable in terms of impact on ecology.

SUMMARY/CONCLUSION

The application is recommended for refusal on the basis that it fails to satisfy the criteria of Local Plan Policy TR1 and is therefore unacceptable in highway safety terms.

REFUSAL REASONS

- 1 Warwick District Local Plan Policy TR1 states that development will only be permitted which provides safe, suitable and attractive access routes for pedestrians, cyclists and users of motor vehicles. Proposals will be expected to demonstrate that they are not detrimental to highway safety.

In the opinion of the Local Planning Authority, the formation of an access in the proposed location on Manor Road will lead to an increase in

reversing vehicular movements adjacent to the junction with Tainters Hill. Vehicle speeds at the southern boundary of the application site are close to the posted speed limit of 30 MPH, and such manoeuvres in this location are likely to have safety implications for other road users.

Furthermore, it is considered that the proposal fails to provide sufficient inter-visibility between drivers and pedestrians, which poses highway and pedestrian safety concerns.

The development is therefore considered to be contrary to the policy.
