

**Planning Committee:** 18 June 2024

**Item Number:** 10

**Application No:** [W 24 / 0177](#)

**Town/Parish Council:** Leamington Spa

**Registration Date:** 09/02/24

**Case Officer:** Rebecca Compton

**Expiry Date:** 05/04/24

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**Regency House, Newbold Terrace, Leamington Spa**

Demolition of existing brick boundary wall and erection of new metal railings and associated works FOR Regency House Residents' Association (Leamington Spa) Ltd

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This application is being presented to Planning Committee due to the number of objections received.

**RECOMMENDATION**

Planning Committee is recommended to grant planning permission, subject to the conditions listed at the end of this report.

**DETAILS OF THE DEVELOPMENT**

The proposal seeks planning permission for the replacement of an existing boundary wall located along Rosefield Street with metal railings. The development would include the removal of one tree along the Rosefield Street elevation.

**THE SITE AND ITS LOCATION**

The application site relates to the apartment complex Regency House which is accessed off Newbold Terrace, Leamington Spa. The application specifically relates to the rear boundary wall to the car park serving Regency House which runs adjacent to Rosefield Street. The rear boundary benefits from a number of trees and a landscaping strip between the existing boundary wall and the public footpath. The site is in the Royal Leamington Spa Conservation Area.

**PLANNING HISTORY**

None relevant.

**RELEVANT POLICIES**

- National Planning Policy Framework
- [Warwick District Local Plan 2011-2029](#)
- BE1 - Layout and Design
- BE3 - Amenity
- HE1 - Protection of Statutory Heritage Assets
- TR1 - Access and Choice
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- NE3 - Biodiversity

- Royal Leamington Spa Neighbourhood Plan 2019-2029
- RLS3 - Conservation Area

## **SUMMARY OF REPRESENTATIONS**

**Royal Leamington Spa Town Council:** Raised no objection.

**WDC Tree Officer:** No objection, subject to condition securing tree protection measures.

**WCC Ecology:** Recommend the tree is checked for bats and nesting birds.

**Public Response:** 6 objections received on the following grounds:

- Impact on neighbours in terms of noise and light pollution
- Visual impact on the Conservation Area
- The original development required a boundary wall
- Loss of privacy to residents of Regency House

1 support comment has been received on the basis that the existing boundary wall is unsafe, and the proposed railings will retain the existing trees.

## **ASSESSMENT**

### Design and impact on the character and appearance of 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 205 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 207 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 Warwick District Local Plan states that development will not be permitted if it would lead to substantial harm to or total loss of the significance of a designated heritage asset, unless it is demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss, or if criteria listed within the policy have been satisfied. Where development would lead to less than substantial harm to the significance of a designated heritage asset, this harm will be weighed against the public benefits of the proposal, including securing its optimum viable use.

Policy BE1 of the Warwick District Local Plan states that new development should positively contribute to the character and quality of its environment. The policy requires the provision of high-quality layout and design in all developments that relates well to the character of the area.

Neighbourhood Plan Policy RLS3 requires development within or affecting the setting of a conservation area to be of a design that is sympathetic to the local context including designated heritage assets.

The proposal seeks to replace an existing boundary wall with metal railings. The existing boundary wall has structural damage, which is being caused by the adjacent trees, which has been confirmed through a Structural Survey and an Arboricultural Survey. The Structural Survey recommends that to retain a boundary wall, larger foundations would be required. A subsequent Arboricultural Assessment was undertaken which deemed this would likely cause harm to the large tree roots to the protected trees, particularly the large Maples. The proposal is therefore to replace a section of the boundary wall with metal railings which can be supported by metal props rather than foundations which would not affect the tree roots and would enable the retention of the existing protected trees. There are a number of examples of boundary railings along Rosefield Street and in the wider area. In this context the proposed boundary railings would be of an acceptable design and would not be harmful to the character and appearance of the street scene. Whilst the proposal would result in views of the existing car park in the street scene, it is not considered that this would be detrimental to the character and appearance of the street scene nor the wider conservation area.

The proposal includes the removal of one tree along the Rosefield Street boundary. Officers consider that the tree to be removed has a low amenity value and the loss of the tree would not be detrimental to this part of the conservation area. Officers consider the Maple trees provide the most valuable contribution to the street scene and are therefore supportive of the proposals which will ensure they are retained.

Whilst concerns regarding the loss of the boundary wall are noted and understood, Officers are satisfied that the proposed railings are of an acceptable design and would not be harmful to the street scene nor the character and appearance of the Conservation Area.

The proposal is considered to comply with the aforementioned policies.

#### Impact on amenity of neighbouring properties

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

The existing boundary wall and the proposed railings are separated from the nearest neighbouring properties along Rosefield Street by the public highway. Whilst the development would increase views along Rosefield Street into the rear car park serving Regency House, Officers are of the view that this would not cause harm to the amenity of neighbouring properties in terms of noise given the neighbouring properties are situated approximately 11 metres away from the existing car park and are separated from the site by the existing highway and on-street parking. Concerns have also been raised over potential light pollution from the existing car park. Whilst these concerns are noted and understood, the majority of the outdoor lighting serving Regency House is contained near to the main building which is situated over 30 metres away from the neighbouring properties along Rosefield Street. The existing large trees and landscaping strip

are to be retained which will provide some screening of the car park from the street scene and neighbouring properties. Based on the above, Officers are satisfied that the development would not cause harm to the amenity of neighbouring properties.

The proposal is considered to comply with Local Plan Policy BE3.

### Ecology

The proposal seeks the removal of one Rowan tree which has been identified in the Tree Survey to be in poor health and recommended for removal. The applicant has submitted an Arboricultural Method Statement detailing tree protection measures to ensure no harm to the trees to be retained is caused during the construction phase. The proposed railings have also been chosen as the most appropriate boundary treatment to avoid any negative impacts on the existing trees. The Tree Officer has raised no objection, subject to a condition securing the tree protection scheme submitted as part of the Arboricultural Method Statement. The proposal seeks to retain the existing landscaping strip and as the habitat to be lost, i.e. the Rowan tree, would be no greater than 25 square metres, the development is exempt from achieving biodiversity net gains.

Subject to condition, the development complies with Local Plan Policies NE2 and NE3.

### Access and parking

The proposal would not impact the existing access to the site nor the parking layout at Regency House. The boundary railings would replace an existing wall of a similar height in the same position and so would not impact on visibility for highway users along Rosefield Street.

The development complies with Local Plan Policies TR1 and TR3.

### **Conclusion**

The proposed railings are considered of an acceptable design and would not be harmful to the character and appearance of the Conservation Area. Furthermore, the development would not have a detrimental impact on the amenity of neighbouring properties and has demonstrated that the development would not have a harmful impact on the protected trees.

### **CONDITIONS**

- 1 The development hereby permitted shall begin not later than three years from the date of this permission. **Reason:** To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawing(s) 30112022/1A, and specification contained therein, submitted on 09th February 2024. **Reason:** For the avoidance of doubt

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

- 3 No development or other operations (including demolition, site clearance or other preparatory works) shall commence unless the tree protection measures identified in the approved application documentation have been put into place in full accordance with the approved details and thereafter shall remain in place for the full duration of any such construction work. In addition no excavations, site works, trenches or channels shall be cut or pipes or services laid, no fires shall be lit within 10 metres of the nearest point of the canopy of any protected tree(s); no equipment, machinery or structure shall be attached to or supported by a protected tree(s); no mixing of cement or use of other contaminating materials or substances shall take place within, or close enough to, a root protection area that seepage or displacement could cause them to enter a root protection area or any other works carried out in such a way as to cause damage or injury to the tree(s) by interference with their root structure and that no soil or waste shall be deposited on the land in such a position as to be likely to cause damage or injury to the tree(s). **Reason:** In order to protect and preserve existing trees within the site which are of amenity value in accordance with Policies BE1 and NE1 of the Warwick District Local Plan 2011-2029.
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