

**Planning Committee:** 09 January 2018

**Item Number: 9**

**Application No:** [W 17 / 1828](#)

**Town/Parish Council:** Kenilworth

**Case Officer:**

Ed Pigott

01926 456521 ed.pigott@warwickdc.gov.uk

**Registration Date:** 10/10/17

**Expiry Date:** 05/12/17

**121-123 Warwick Road, Kenilworth, CV8 1HP**

Change of use, conversion and extension of restaurant building (Use Class A3) with associated works to provide 6no. cluster flats providing a total of 23no. bedrooms for use as student accommodation FOR Mr JR Gill Investments Ltd

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This application is being presented to Committee due to the number of objections and an objection from the Town Council having been received.

**RECOMMENDATION**

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

**DETAILS OF THE DEVELOPMENT**

The proposed development would extend the building along the Warwick Road with a parking area behind. This would facilitate the creation of six cluster flats for student accommodation providing 1 x 8 bedrooms, 1 x 5 bedrooms, 2 x 4 bedrooms and 2 x 1 bedroom. There would be 23 bedrooms in total with twenty single rooms and two shared by two people.

Along the Warwick Road, the roofline would be raised to match the adjacent property. The facing elevation would be amended, bay windows removed and two lightwells would be added.

On the Warwick Road elevation, the new section would extend the roof line along and then drop down. A gap would be left between the existing and the proposed buildings. There would be a covered access into a parking area behind where the bin storage area would also be sited.

Eight parking spaces would be provided with six of these in the parking court with another two spaces provided off Clarendon Road.

**THE SITE AND ITS LOCATION**

The application site is within Kenilworth fronting the Warwick Road and Clarendon Road. The site is a former Indian restaurant with associated parking. The site, fronting onto Clarendon Road, contains a paved area to the front with a

low retaining wall. A forward single storey extension with balcony projects beyond the building.

Fronting Warwick Road, the building extends to three stories with bay windows on the ground floor. There is a small gap between the elevation and the pavement.

There is also a tarmaced parking area to the rear of the building accessed from Warwick Road.

The site is adjacent to the Kenilworth Conservation Area.

### **PLANNING HISTORY**

W/08/1681- Erection of first floor restaurant extension to front – Refused

### **RELEVANT POLICIES**

- National Planning Policy Framework
- DS5 - Presumption in Favour of Sustainable Development (Warwick District Local Plan 2011-2029)
- H6 - Houses in Multiple Occupation and Student Accommodation (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)
- TR3 - Parking (Warwick District Local Plan - 2011-2029)
- HS4 - Improvements to Open Space, Sport and Recreation Facilities (Warwick District Local Plan 2011-2029)
- FW3 - Water Conservation (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)
- NE5 - Protection of Natural Resources (Warwick District Local Plan 2011-2029)
- NE3 - Biodiversity (Warwick District Local Plan 2011-2029)

#### Guidance Documents

- Vehicle Parking Standards (Supplementary Planning Document)
- Residential Design Guide (Supplementary Planning Guidance - April 2008)
- LES - Low Emission Strategy Guidance for Developers (April 2014)
- Open Space (Supplementary Planning Document - June 2009)

### **SUMMARY OF REPRESENTATIONS**

**Kenilworth Town Council:** Objection due to inadequate car parking and design issues.

**WCC Ecology:** No objection, subject to conditions

**WCC Highway Authority:** No objection, subject to conditions

**WCC Rights of Way:** No comment

**WDC Environmental Protection:** No objection from a housing standards perspective. No objection, subject to condition regarding noise protection measures and a note regarding construction methods.

**WDC Green Space Team:** Contribution required for 23 bedrooms at £1,228 per single room and £834 per multiple bed room equalling £27,062. This would be put towards development objectives of Abbey Fields specifically relating to a new lake jetty.

**WDC Waste Management:** The maximum distance the operatives will move a bin is no further than 10m. The proposal has been amended to satisfy this requirement.

**Public Response:** Six letters of objection and one letter of comment have been received relating to:

- Overdevelopment of site
- Impact on parking
- Impact on privacy
- Design of proposal
- Impact of proposed student accommodation on neighbouring properties
- Height of proposal
- Impact on character of the area
- Loss of light to neighbouring properties
- Impact on pedestrian safety
- Potential for noise pollution
- Access rights running through the site to the properties to the rear
- Non-compliance with HMO policy

Comments relate to:

- Parking issues

Following amendments to the scheme, one further letter of objection was received. The objections mirrored the above.

## **ASSESSMENT**

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

- The principle of the development
- The impact on the character and appearance of the area
- The impact on the adjacent Conservation Area
- The impact on neighbouring properties and whether the proposal would provide adequate living conditions for future occupiers of the development

- The impact on the highway network and parking provision
- Other matters

### Principle of development

Policy H6 of the Local Plan states that planning permission will only be granted for Houses in Multiple Occupation where:

- a) The proportion of dwelling units in multiple occupation (including the proposal) within a 100m radius of the application site does not exceed 10% of the total dwelling units;
- b) The application site is within 400m walking distance of a bus stop;
- c) The proposal does not result in a non-HMO dwelling being sandwiched between two HMOs;
- d) The proposal does not lead to a continuous frontage of three or more HMOs; and
- e) Adequate provision is made for the storage of refuse containers whereby –
  - i. The containers are not visible from an area accessible by the general public, and
  - ii. The containers can be moved to the collection point along an external route only.

This proposal seeks to change the use of and extend an existing building. This would be spread over five floors and would create 6 cluster flats.

The HMO calculation carried out demonstrates that, including the development proposal, the resulting percentage of HMOs within a 100m radius would be 8.55% thus complying with the first part of Policy H6. Notwithstanding this, it is considered that the proposal would comply within the exception set out in the Policy as the site is on a main thoroughfare in a mixed use area and would not lead to an increase in activity along residential streets.

Points b) to e) are all satisfied by the development in that there is a bus stop within 400m, the proposal would not sandwich a non-HMO, there would not be a continuous frontage or three or more HMOs, there is adequate provision of refuse containers and the proposal would not lead to a continuous frontage of three or more HMOs.

Finally, the application site is outside of Kenilworth's Town Centre Boundary and therefore there is no policy protecting the current use as an Indian restaurant.

The loss of the existing use is considered acceptable and the proposal overall complies with all the stipulated provisions of Policy H6 and as such is acceptable in principle. An assessment will, however, have to be made regarding all other relevant planning considerations.

### Impact on the character of surrounding area

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.

The proposal would utilise and extend an existing building using the adjacent buildings as a design cue. The roofline would be extended to match the existing buildings and would then drop down to match the existing buildings along Warwick Road. There would be a mixture of brick and render proposed with a slate tile roof. The detailing of the building uses the adjacent buildings to ensure continuity.

It is considered that the new elements of the proposal would respect the character of the area. The window form matches the rhythm of the existing buildings which would help the proposed settle into the streetscene.

On the rear elevation, the more modern style which was originally proposed has amended to provide a more simple approach. This simple form echoes the surrounding buildings, is of a high quality and would respect the character of the area. The modern touches are not over impingent on the overall style and design of the building.

Details of all external/facing materials will be conditioned together with a full landscaping scheme.

The proposal is therefore considered to comply with Policy BE1 of the Local Plan.

#### Impact on the Conservation Area

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty to have special regard to the desirability of preserving a conservation area or its setting when considering whether to grant a planning permission which affects a conservation area or its setting.

Paragraph 132 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Warwick District Local Plan Policy HE2 (protection of conservation areas) states development will be expected to respect the setting of conservation areas and important views both in and out of them.

During the course of the application, the scheme has been amended. A storey has been removed, the proportions of windows have been improved, and the rear elevations have been redesigned to reflect the simple fenestration of neighbouring historic properties. In townscape terms the scheme will now be a positive addition. The above suggested conditions can ensure that the proposal would be high quality.

The proposed development is not considered to cause harm to the setting of the Conservation Area and therefore the tests in Paras 132 and 134 do not apply. As such, the proposal is considered to comply with Policy HE2 of the Local Plan.

#### Impact on adjacent properties/residential amenity and living conditions for future occupiers

Policy BE3 states that development will not be permitted that has an unacceptable adverse impact on the amenity of nearby uses and residents and/or does not provide acceptable standards of amenity for future users and occupiers of the development.

With regards to the amenity for any future occupiers, all habitable rooms have a window with sufficient outlook and light. None of the bedrooms in the basement are positioned to face onto Warwick Road and those facing Clarendon Road can be screened by vegetation which can be secured by condition. Further, there is no objection to the proposal from the Private Sector Housing Team from a housing standards perspective.

Environmental Protection have assessed the application and the submitted noise report and have no objection to the proposal, subject to a condition and note. The noise report demonstrates that the recommended internal sound levels can be achieved by using conventional secondary glazed windows with the appropriate design. These windows would, however, have to be closed, so alternative means of background ventilation would be necessary. These details can be secured by condition to ensure that there is a suitable standard of amenity for future residents.

With regards to the potential impact on neighbouring residents, the proposed HMO accords with Policy H6 which is designed to ensure there is no harmful over-concentration of HMOs in any area and therefore it is concluded that the proposal would not lead material harm to neighbouring residents. It should also be noted that the current use as an Indian restaurant could lead to parking in the parking area through the day and evening so a parking area in this space would not cause any additional harm. Finally, a condition can prohibit the use of the area next to bedroom one of cluster two from being used as a balcony. As proposed there is no access to this area.

It has been raised that the additional built form would impact on the existing properties to the east. However, it is considered that the distance from the existing properties and the orientation of the relationship would mean that there would be no material harm by reason of overlooking. Therefore, the privacy of both the existing and proposed residents would be protected.

Finally, a condition requiring the submission of a Construction Management Plan is recommended. This could control hours of working, delivery times and the control of noise and dust.

The proposed development is therefore considered to comply with Policy BE3.

#### Access and Parking

Policy TR1 of the Warwick District Local Plan requires all developments to provide safe, suitable and attractive access routes for all users that are not detrimental to highway safety.

Policy TR3 requires all development proposals to make adequate provision for parking for all users of a site in accordance with the relevant parking standards.

The proposed scheme would have a shortfall of 4 spaces when assessed against the Council's Vehicle Parking Standards SPD. However, the Highways Authority have assessed the application, and the applicant's Transport Statement, and are of the opinion that the level of parking proposed is acceptable. This is based on the local facilities and amenities available within the vicinity of the site (including the local bus services) given the site's sustainable location. It is also noted that 9 bicycle stands are to be provided within the parking court, which can be secured by condition.

With regards to the impact of the shortfall in parking on the amenity of neighbouring occupiers, the sustainable location is noted. Further, two site visits have been made to the location where it was seen that there was sufficient capacity on street within the local area to accommodate the shortfall of four spaces.

With regards to vehicle trip generation, the proposal would generate a slight increase in vehicle trips during the AM peak hour. However, the proposals will generate significantly fewer vehicle trips over the 12-hour period compared to the existing use. Therefore, despite a substandard visibility splay at the access, the proposal is considered acceptable by the Highway Authority.

Taking the above into account, it is considered that the proposed development accords with Policies TR1 and TR3 of the Local Plan.

## **Other Matters**

### Ecology

Warwick District Local Plan Policy NE2 states that the Council will protect designated areas and species of national and local importance for biodiversity and geodiversity. Policy NE3 states that new development will be permitted provided that it protects, enhances and/or restores habitat biodiversity.

The County Ecologist has assessed the application and has no objection to the proposal subject to a condition regarding bats, a check for protected species if necessary and a condition to ensure a net gain in biodiversity.

As such, subject to conditions, the proposal complies with Policies NE2 and NE3 of the Local Plan.

### 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.

As set out in HS4 of the Warwick Local Plan 2011-2029, a contribution is 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' and its associated guidance, 'Developer Contributions for commuted payments for new provision/enhancement of open space'.

On the basis of the above, the Open Space team have requested a contribution for 23 bedrooms at £1,228 per single room and £834 per multiple bed room equalling £27,086.

The contribution will be put toward the development objectives of Abbey Fields, relating specifically to replacement of new lake jetty.

Abbey Fields 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 by 2026. At the time of responding, there are no S106 agreements assigned to this project within the park.

This can be secured by condition and the proposal therefore complies with Policy HS4.

#### Low Emissions

Warwick District Council has adopted Low Emission Strategy planning guidance as an addendum to the Air Quality Action Plan.

The Low Emission Strategy Guidance 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. No such provision has been shown on the plans, but this can be secured by condition.

#### Bin storage

Two bins of a size recommended by the Council's Waste Management Operative have been provided within ten metres of the highway. These are in a location which would not harm any amenity of future residents and a condition can ensure a suitable bin store is created prior to first occupation. The proposal is therefore acceptable in this regard.

#### CIL

This proposal will be CIL liable, the amount of which will be calculated following the determination of the application.

### **Conclusion**

The principle of development is considered acceptable having regard to the applicable policies. There would be no material harm caused to the character of the wider area, the amenity of neighbouring properties or the highway network. Suitable planning conditions could shape and mitigate the development and therefore, it is considered to represent a sustainable form of development overall. For these reasons, it is recommended that planning permission be granted subject to the following conditions and notes.

## **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) 10597-10D, 10597-11C and 10597-12B and specification contained therein, submitted on 5th December 2017 and 15th December 2017. **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 Other than site clearance and preparation works no works shall commence on the construction of the development hereby permitted until samples of the external facing materials (including sample brick panels, render, natural slate roof and drip moulds over window heads) to be used have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. **REASON:** To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the locality in accordance with Policy BE1 of the Warwick District Local Plan 2011-2029.
- 4 Other than site clearance and preparation works no works shall commence until large scale details of doors, windows (including a section showing the window reveal, heads and cill details), eaves, verges, rainwater goods and grills to the car park area at a scale of 1:5 (including details of materials) have been submitted to and approved by the Local Planning Authority. The development shall be carried out in strict accordance with such approved details. **REASON:** To ensure an appropriate standard of design and appearance for the site adjacent to the Conservation Area, and to satisfy Policy HE2 of the Warwick District Local Plan 2011-2029.
- 5 Unless the Local Planning Authority certifies that suitable alternative provision has been made for the provision or improvement of open space within the catchment area of the application site in accordance with Policy SC13 of the Warwick District Local Plan 1996-2011:
  - (i) no development shall commence unless or until a scheme for such provision or improvement (identifying the size/extent, location and specification of the space and works) has been submitted to and approved in writing by the Local Planning Authority; and
  - (ii) the dwellings hereby permitted shall not be occupied until the scheme so approved has been implemented.

**REASON:** To ensure the necessary infrastructure and facilities are

provided in accordance with Policy SC13 of the Warwick District Plan 1996 – 2011.

- 6 The development hereby permitted shall not commence until a scheme detailing arrangements to protect residents of the development from excessive road traffic noise entering habitable rooms has been submitted to and approved in writing by the local planning authority. The development shall not be occupied unless and until the scheme has been implemented in full in accordance with the approved details and it shall be retained as such thereafter. **REASON:** To protect the amenities of future occupiers of the proposed development in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.
- 7 The development (including any works of demolition) shall proceed only in strict accordance with a construction method statement which has been submitted to and approved in writing by the local planning authority. The approved statement shall be strictly adhered to throughout the construction period and shall provide for: the parking of vehicles of site operatives and visitors; the loading and unloading of plant and materials; the storage of plant and materials used in constructing the development; the erection and maintenance of a security hoarding including decorative displays and facilities for public viewing where appropriate; measures to control the emission of dust and dirt during construction; and a scheme for recycling / disposing of waste resulting from demolition and construction works, unless otherwise agreed in writing by the local planning authority. **REASON:** In the interests of highway safety and the amenities of the occupiers of nearby properties, the free flow of traffic and the visual amenities of the locality in accordance with Policies BE1, BE3 and TR1 of the Warwick District Local Plan 2011-2029.
- 8 Prior to the commencement of development hereby permitted a scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include:
  - a) planting plans,
  - b) written specifications including cultivation and other operations associated with tree, plant and grass establishment.
  - c) a schedule of plants noting species, plant sizes and proposed numbers/densities.
  - d) existing landscape features such as trees, hedges and ponds to be retained accurately plotted (where appropriate).
  - e) existing landscape features such as trees, hedges and ponds to be removed accurately plotted (where appropriate)
  - f) the means of accommodating change in level (e.g. steps, retaining walls, ramps where appropriate)
  - g) hard surfacing materials- details of manufacturer, type and design, colour and bonding pattern where appropriate. Samples may be required to be submitted and approved.
  - h) the position and design of all site enclosures

- i) car parking layout
- j) other vehicular and pedestrian areas
- k) minor artefacts and structures (e.g. street furniture, cycle storage, refuse areas, signage, lighting etc).

The approved scheme shall be carried out concurrently with the development and completed prior to the first occupation of the development hereby permitted.

If within a period of five years from the date of the soft planting pursuant to this condition that soft planting is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced by planting as originally approved, unless the Local Planning Authority gives its written approval to any variation. This replacement planting shall be undertaken before the end of the first available planting season (October to March inclusive for bare root plants), following the removal, uprooting, destruction or death of the original trees.

**REASON:** To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies BE1, BE3 and NE4 of the Warwick District Local Plan 2011-2029.

- 9 The development hereby permitted shall not be occupied until a scheme which satisfies the requirements set out in the Council's adopted Low Emission Strategy Guidance for Developers (April 2014) has been submitted to and approved in writing by the Local Planning Authority and implemented in full accordance with the approved details. The approved scheme shall be retained and maintained as such at all times thereafter. **REASON:** To ensure mitigation against air quality impacts associated with the proposed development in accordance with Policy NE5 of the Warwick District Local Plan.
- 10 Prior to the occupation of the development hereby permitted, the windows serving bathrooms/en-suites, as shown on plan number 10597 - 11 - REV C, shall be permanently glazed with obscured glass to a degree sufficient to conceal or hide the features of all physical objects from view and shall be non-opening unless the parts of the window that can be opened are more than 1.7 metres above the floor of the room in which the window is installed. The obscured glazed window(s) shall be retained and maintained in that condition at all times. **REASON:** To protect the privacy of users and occupiers of nearby properties and to satisfy the requirements of Policy BE3 of the Warwick District Local Plan 2011-2029.
- 11 The roof area adjacent to bedroom 1 of cluster two, shown on plan number 10597-11-REV C, hereby permitted shall not be used as a balcony, roof garden or similar amenity area. **REASON:** In the interests of the amenities of the occupiers of nearby properties in

accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.

- 12 The development hereby permitted shall not be occupied unless and until the approved cycle and car parking facilities have been provided and made available for use in accordance with the details on drawing 10597 10 C and thereafter those facilities shall remain available for use at all times. **REASON:** In the interests of encouraging the use of alternative modes of transport with the aim of creating a more sustainable development in accordance with Policies TR1 and TR4 of the Warwick District Local Plan 2011-2029.
  
- 13 The development hereby permitted shall not be occupied unless and until the external refuse storage areas for the development have been constructed or laid out, and made available for use by the occupants of the development in accordance with the approved details and thereafter those areas shall be kept free of obstruction and be available at all times for the storage of refuse associated with the development. **REASON:** To ensure the satisfactory provision of refuse storage facilities in the interests of amenity and the satisfactory development of the site in accordance with Policy BE1 of the Warwick District Local Plan 2011-2029.