

Application No: [W 22 / 1739](#)

Town/Parish Council: Warwick
Case Officer: Jack Lynch
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Registration Date: 02/11/22
Expiry Date: 28/12/22

26 Wathen Road, Warwick, CV34 5BA

Erection of 1no. 1 bed dwelling (re-submission of application ref: W/22/0709)
FOR Mr S Nijjar

This application is subject to an appeal to the Planning Inspectorate against the non-determination of the application by the LPA within the statutory 13-week period.

In the case of a non-determination appeal, a steer from Planning Committee on the decision it was likely to have made on the application, had it been determined, guides the Council’s submissions on the appeal and forms the basis of the Council’s case at the appeal.

Members are not therefore being asked to determine the application as this is now in the hands of the Planning Inspectorate. The proposal is in front of Members for consideration of the decision that would likely have been made by the Local Planning Authority, if it had been in a position to formally determine the application.

RECOMMENDATION

Planning Committee are recommended to indicate that they would have refused planning permission for the reason set out in this report.

THE SITE AND ITS LOCATION

The application relates to a parcel of land to the south of 26 Wathen Road, Warwick. This currently serves as amenity land for the occupiers of the existing property. To the southeast of the application site is an area of land which acts to provide informal parking for local residents. The application site is located within Flood Zones 2 and 3.

DETAILS OF THE DEVELOPMENT

Planning permission is sought for the erection of a one bed, two-storey dwelling. The dwelling would attach to 26 Wathen Road, extending the existing terrace of properties.

The application forms a re-submission of W/22/0709 which was refused as a result of outstanding flood risk information and an insufficient parking arrangement.

RELEVANT PLANNING HISTORY

W/22/0709 - Erection of 1no. 1 bed dwelling - Refused

RELEVANT POLICIES

- National Planning Policy Framework

Warwick District Local Plan 2011-2029

- BE1 - Layout and Design
- BE3 - Amenity
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- NE3 - Biodiversity
- CC1 - Planning for Climate Change Adaptation
- TR1 - Access and Choice
- TR3 - Parking
- H1 - Directing New Housing
- FW1 - Development in Areas at Risk of Flooding
- FW2 - Sustainable Urban Drainage
- FW3 - Water Conservation

Guidance Documents

- Parking Standards (Supplementary Planning Document- June 2018)
- Distance Separation (Supplementary Planning Guidance)
- Residential Design Guide (Supplementary Planning Document- May 2018)
- Air Quality & Planning Supplementary Planning Document (January 2019)
- The 45 Degree Guideline (Supplementary Planning Guidance)

SUMMARY OF REPRESENTATIONS

Warwick Town Council - Members raise no objection but reference concerns raised under previous application (in relation to parking capacity)

WCC Flood Risk Management (LLFA) - No objection.

WCC Ecological Services - No objection subject to bat box condition. Recommended advisory notes in relation to bats, nesting birds, hedgehogs and biodiversity enhancements.

WCC Highways - No objection subject to conditions to secure public footway installation and completion of parking areas prior to occupation of new dwelling.

Main Issues

The main issues are:

- Principle of the development
- Impact on the character of the area
- Impact on the residential amenity
- Flood risk
- Impact on the parking and Highway Safety
- Sustainability
- Impact on the ecology
- Impact on the trees

ASSESSMENT

Principle of the Development

National Planning Practice Guidance (NPPG) requires Local Planning Authorities to steer new development to areas at the lowest probability of flooding by applying a flood risk sequential test. The NPPG also states the sequential test should be applied to guide development to Flood Zone 1, then Zone 2, then Zone 3; only when there are no reasonably available sites in Flood Zone 1 should site within Flood Zone 2 be considered. Local Plan Policy FW1 (a) is consistent with the National Planning Policy Framework which highlights that new development must be steered to areas with the lowest probability of flooding. As the application site is not allocated for development in the Local Plan, the sequential test must be applied.

The site lies within the flood zone 2 and 3. Therefore the proposal conflicts with the Local Plan Policy FW1 which states that there will be a presumption against development in flood zone 3, and no built development will be allowed in the functional floodplain. Development must be steered to areas with the lowest probability of flooding. The proposal also contradicts with the advice contained within the NPPF paragraph 161 and 162. The proposed dwelling in Flood Zone 2 (The frontage of the dwelling and the highway is in Flood Zone 3) is identified as more vulnerable development within the flood risk vulnerability classification and flood zone compatibility set out in the PPG2 and is identified as 'inappropriate development in that respect. NPPF para 60 supports the boosting of the supply of homes in the context of the presumption in favour of sustainable development.

The NPPF identifies three dimensions of sustainable development:

- Economic, in terms of building a strong economy and in particular by ensuring that sufficient land is of the right type and is available in the right places.
- Social, by supporting, strong and healthy communities by providing the supply of housing required to meet future need in a high quality environment with accessible local services and
- Environmental, through the protection and enhancement of the natural, built and historic environment.

In terms of the economic and social criteria, the proposal would provide one new dwelling and would make a positive, albeit modest, contribution to the housing supply. However, given the small scale nature of the development these benefits are not considered to be significant and not definitive in this instance. The LPA has updated housing figures and there are five year housing specific deliverable sites within the district.

Notwithstanding the above, in this instance it is not appropriate to discount this site to grant planning permission solely on the basis that a planning permission has already been granted for a single dwelling within the vicinity [24 Wathen Road under W/19/1343]. In officers opinion, on balance, there are no specific circumstances which indicate a functional need for residential accommodation.

The proposal conflicts with local plan policy FW1 and NPPF para 159, 160, 161 and 162.

The development site is within flood zones 2 and 3. The Council has five years' worth of housing specific deliverable sites which are sufficient to provide housing within the district for the next 5 years without needing to direct new housing into areas of higher risk of flooding.

Given the inappropriate location within the flood Zone [2 /3], the principle of the development is not supported.

The Impact on the Character and Appearance of the 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 proposed new dwelling and its associated works are considered to have an acceptable impact on the street scene. The development has been designed as an extension to the existing terrace, with the same ridge height, a hipped side profile and comparable fenestration details to existing properties within this group. As the dwelling has been designed to essentially replace the end of the row with a very similar design, this is considered to respect the existing development surrounding

the site. Facing materials have been detailed to match the existing run of terraced properties upon which the new dwelling would adjoin.

A two storey projection has been proposed to the rear of the new dwelling that would extend slightly beyond the existing rear wall of No.26. However, this projection has been appropriately scaled and detailed such that it would not result in any visual harm to the street scene. Its position to the rear of the property also limits any visual implication in this sense.

Therefore, the proposed development is considered to be in accordance with Local Plan Policy BE1.

Impact on Neighbouring Residential Amenity and Amenity of the Future Occupiers of the Dwelling

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 create visual intrusion. The Residential Design Guide SPD 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.

Impact on Neighbouring Residential Amenity

There would be no conflict with the Council's 45-degree guide as a result of the proposed development. As a result of its design and position the dwelling is not considered to result in the generation of material harm to the amenity of neighbouring/adjoining properties by way of loss of light, outlook, or privacy.

In addition, a significant degree of separation to the adjacent site at No.24 Wathen Road would be retained by virtue of the informal parking area that intersects the two sites. The new dwelling would also respect the existing form of development in terms of distance separation to those opposite Wathen Road, and there are no adjacent properties to the rear of the plot.

The proposed development would result in the reduction of private amenity space for the occupiers of 26 Wathen Road. As a result, the garden area would be reduced to approximately 53sq metres, which still exceeds the 40sq m standard prescribed within the WDC Residential Design Guide SPD for a property of its scale.

It is therefore considered that the proposed dwelling would have an acceptable impact on neighbouring residential amenity.

Living Conditions for the Future Occupiers

The proposal would provide appropriate levels of amenity for the future occupiers of the dwelling. The dwelling would have access to adequately sized private garden

area which meets with the requirements of the Residential Design Guide and all habitable rooms would be served by appropriate levels of natural light and outlook.

For these reasons the proposed development is considered to be in accordance with the NPPF and Local Plan policy BE3.

Flood risk

The National Planning Policy Framework, (NPPF), states that more vulnerable developments are permitted within Flood Zones 1 and 2 and therefore, the Local Planning Authority are not required to apply the Sequential or Exception Test. However the NPPF and the National Planning Practice Guidance (NPPG) requires Local Planning Authorities to steer new development to areas at the lowest probability of flooding by applying a flood risk sequential test. The NPPG also states the sequential test should be applied to guide development to Flood Zone 1, then Zone 2, then Zone 3; only when there are no reasonably available sites in Flood Zone 1 should sites within Flood Zone 2 be considered. The policy FW1 (a) is consistent with the National Planning Policy Framework which highlights that new development must be steered to areas with the lowest probability of flooding. As the application site is not allocated for development in the Local Plan, it is reasonable that the sequential test should be applied at a district level.

In that respect, the Council has five-year housing land supply of specific deliverable sites which are sufficient to provide housing for next 5 years. Therefore, the proposal is regarded as inappropriate development in areas at risk of flooding which should be avoided by directing development away from areas at highest risk.

WCC Flood Risk Management as the Lead Local Flood Authority (LLFA) commented on the application, initially noting that insufficient details have been submitted with regards to the proposed surface water drainage scheme for the development and as such did not recommend granting planning permission until such information has been received. Following the provision of an updated drainage strategy ref.412-Rev-V3, and an associated letter setting out responses to raised queries, the LLFA updated their response to one of no objection. The LPA does acknowledge that the applicant has complied with requirements by providing the relevant information to mitigate the impact of the flood risks. However, such matters do not remove the potential for flooding in the future. The location of the proposed development is inappropriate and no further housing developments within the vicinity should be supported.

It is evident that there are other sites outside of Flood Zone 2 and 3 with a lower probability of flooding within the District, that could provide a single dwelling and therefore it is considered the proposal fails the sequential test and therefore is contrary to NPPF paragraphs 161 and 162.

Therefore proposal conflicts which local plan policy FW1 and NPPF para 159, 160, 161 and 162.

Parking and Highway Safety

Policy TR3 of the Warwick Local Plan seeks to ensure parking provision associated with development proposals is reflective of the local area, and is in accordance with the Parking Standards SPD.

An existing private parking space to the side of No.26 accessed via the adjacent informal parking area would be lost as a result of the development. This loss would be offset via the formation of a new parking space for the use of No.26 to the frontage of that property, accessed via a dropped kerb onto Wathen Road.

The proposed dwelling would be accompanied by two spaces to the rear of its plot, accessed via the existing informal parking area to the south of the site. While the proposed plan illustrates that the property would only feature a single bedroom, the size of the associated dressing room illustrated and the comparative scale of the dwelling suggests that two bedrooms could comfortably be accommodated within the first floor, and this is indeed the likely future layout of the site. As such, the illustrated two off-street spaces to serve the new dwelling are considered appropriate in accordance with the WDC Parking Standards SPD.

The Local Highway Authority commented on the application, raising no objection subject to the imposition of conditions to secure appropriate installation of a footway crossing to the frontage of No.26 and provision of parking for the new dwelling in accordance with submitted details.

A suitably scaled cycle store has also been illustrated on the submitted details.

In view of the above the scheme is considered in accordance with Local Plan Policies TR1, TR3 and the Parking Standards SPD.

Sustainability

Policy CC1 of the Local Plan requires all development is required to be designed to be resilient to, and adapt to the future impacts of, climate change through the inclusion of the following adaptation measures where appropriate. Policy CC2 seeks to ensure proposals are designed, in terms of its location and scale, to minimise any adverse impacts on adjacent land uses and local residential amenity.

Further to this, the Net Zero Carbon DPD soon to be adopted, aims to minimise carbon emissions from new buildings within the District to support the achievement of national and local carbon reduction targets. The DPD will aim to ensure all new developments should be net zero carbon in operation. For the purposes of this DPD net zero carbon relates to regulated operational energy, which results from fixed building services and fittings (space heating, cooling, hot water, ventilation and lighting).

Officers are satisfied that a condition requiring submission of a Sustainability Statement would have been attached to ensure compliance with Policies CC1 and CC2 of the Warwick District Local Plan.

Ecology

Policy NE2 of the Local Plan seeks to protect designated biodiversity assets and protected species, ensuring they are not adversely impacted by development proposals.

The consultee Ecologist at WCC has assessed the application and recommend that a condition is attached to ensure that there is a net biodiversity gain as a result of the proposed development, through provision of bat and nesting bird boxes. Officers agree with this recommendation, alongside a selection of advisory notes to be attached to any grant of consent.

The proposal is therefore considered to be in accordance with Local Plan Policy NE2.

Air Quality

The Council's adopted Air Quality SPD sets out the level of mitigation that would be required to reduce the impact of emissions resulting from a particular development.

The anticipated vehicle use by residents of the new development is likely to cause an incremental increase in traffic in areas of poor air quality within the district. To offset this, it is viewed necessary that the developer is required to provide electric vehicle charging facilities for the new dwelling. The details submitted indicate that these would be provided. A condition to secure this installation shall be attached to any grant of consent.

Trees

A small selection of trees and planting would be removed to the rear of the site to facilitate the creation of the required parking spaces to the new dwelling. These features are not protected by a TPO and are not considered to add notable amenity value to the street scene. As such no concern is raised in this regard.

Conclusion

The LPA can demonstrate five year housing land supply. Therefore the proposal conflicts with the NPPF and the NPPG as the proposal has not satisfied the sequential test in regards to directing development to sites with a lower probability of flooding. Although the proposal would make a modest contribution towards housing land supply, when weighing up the planning considerations there are insufficient merits to justify overriding the demonstrable harm this proposal would cause in regards to flood risk.

The application is therefore recommended for refusal.

REFUSAL REASONS

1 National Planning Practice Guidance (NPPG) requires Local Planning Authorities to steer new development to areas at the lowest probability of flooding by applying a flood risk sequential test. The NPPG also states the sequential test should be applied to guide development to Flood Zone 1, then Zone 2, then Zone 3; only when there are no reasonably available sites in Flood Zone 1 should sites within Flood Zone 2 be considered. Local Plan Policy FW1 (a) is consistent with the National Planning Policy Framework which highlights that new development must be steered to areas with the lowest probability of flooding. As the application site is not allocated for development in the Local Plan, the sequential test must be applied.

The development site is within floodzones 2 and 3. The Council has five years' worth of housing specific deliverable sites which are sufficient to provide housing within the district for the next 5 years without needing to direct new housing into flood zone 2.

It is therefore considered that the proposed application is contrary to the aforementioned policies.
