

Planning Committee: 12 September 2017

Item Number: 7

Application No: [W 17 / 1077](#)

Town/Parish Council: Leamington Spa
Case Officer: Lucy Hammond

Registration Date: 04/07/17

Expiry Date: 29/08/17

01926 456534 lucy.hammond@warwickdc.gov.uk

The Limes, 21 Guys Cliffe Avenue, Leamington Spa, CV32 6LZ

Construction of 6 apartments and 1 town house: Variation of condition 2 of previously approved application (ref. W/17/0147) - to allow for an increase in the eaves and ridge height of the building by 500mm. FOR Housestyle Countrywide Ltd

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

RECOMMENDATION

That planning permission be granted subject to the conditions and notes listed at the end of this report.

DETAILS OF THE DEVELOPMENT

Permission is sought to vary condition 2 of previously approved planning application ref. W/17/0147 which in itself was a variation of the original permission granted under ref. W/16/0793. The original decision approved the demolition of the original dwelling and the construction of 6 apartments and 1 town house while the first variation sought a minor amendment to the roof line, adding a chimney feature over the communal stairwell to accommodate a lift shaft.

The variations now sought through this current submission seek to increase the overall height of the building by 500mm, which will involve raising the whole building (i.e. finished floor levels, windows etc) by 500mm. Given the history that precedes this submission, including a first submission that was withdrawn before determination, the table below is intended to provide clarification in relation to what was originally proposed (and subsequently withdrawn due to concerns about the proposed height), what was approved and how that compares to the ridge heights proposed now in this current application:-

	Original Proposal*	Approved Scheme	Current Proposals
Central section (tallest part of building)**	11.9m	9.5m	10m
Left section	11.6m	9.5m	10m
Right section (lowest part of building)	8.45m	8.2m	8.7m

* The original proposal (W/16/0043) was withdrawn prior to determination because of concerns about the height of the proposed building

** Measurements taken from the front elevation facing Guy's Cliffe Avenue

Other than the proposed height increase of 500mm across the ridge line in its entirety, no other changes are proposed to the approved scheme.

In view of the history on the site and the schemes that have come forward with changes proposed to the heights, additional justification was requested from the applicant to demonstrate the need for the additional 500mm increase. The applicant has provided the following (summarised) information:

Following the purchase of the site and during the technical process in designing the scheme, an on-site inspection of the chambers and pipe runs in the surrounding roads and verges revealed a storm system at approximately 1200mm from the road level and a foul system at approximately 1500mm below the road level, which differed from information previously obtained. The approved scheme necessitated the use of a fully pumped system for both foul and surface water. However Severn Trent Water has advised that fully pumped systems should be a last resort as the higher pump rates will surcharge the system. In considering alternative options, lifting the building up by 500mm would allow the majority of the site to be served by a gravity led system which inherently lowers run-off rates and is more in line with STW's design hierarchy. This is therefore viewed as a preferable solution to a pumped system which provides many more logistical complexities.

THE SITE AND ITS LOCATION

The application site was previously occupied by a two storey dwelling house situated on the corner of Guys Cliffe Avenue and Coniston Road. Further to the approval of planning permission last year to redevelop the site the dwelling has since been demolished and the site is now vacant. The site is not within the designated Conservation Area which runs along the opposite corner of Guys Cliffe Avenue. There are two accesses onto Coniston Road, one which led to garaging. The boundary along Guys Cliffe Avenue comprises of 1.8 metre high close boarded fencing at the back of the footpath and well established beech hedging. The former property was set back from the road and was not largely visible from Guys Cliffe Avenue, but more so from Coniston Road.

The area is predominantly residential in character albeit there is a tennis club along Guys Cliffe Avenue and Trinity School beyond the site.

PLANNING HISTORY

W/17/0147 - Application for variation of condition 2 of planning permission ref: W/16/0793 (demolition of existing dwelling and construction of 6 apartments and 1 town house with associated parking) to amend roof line and form chimney feature over communal stair to accommodate lift shaft and installation of new ground floor door on rear elevation. – Approved 31.03.2017

W/16/0793 - Demolition of existing dwelling and construction of 6 apartments and 1 town house with associated parking – Approved 21.07.2016

W/16/0043 - Demolition of existing dwelling and construction of 6 apartments and 1 town house with associated parking – Withdrawn 14.03.2016

RELEVANT POLICIES

- National Planning Policy Framework

The Current Local Plan

- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DAP3 - Protecting Nature Conservation and Geology (Warwick District Local Plan 1996 - 2011)
- DP6 - Access (Warwick District Local Plan 1996 - 2011)
- DP8 - Parking (Warwick District Local Plan 1996 - 2011)
- DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)
- SC13 - Open Space and Recreation Improvements (Warwick District Local Plan 1996 - 2011)

The Emerging Local Plan

- BE1 - Layout and Design (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- BE3 - Amenity (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TR1 - Access and Choice (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TR4 - Parking (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- CC2 - Planning for Renewable Energy and Low Carbon Generation (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)

Guidance Documents

- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Open Space (Supplementary Planning Document - June 2009)
- Vehicle Parking Standards (Supplementary Planning Document)

SUMMARY OF REPRESENTATIONS

Royal Leamington Spa Town Council: No objection

WCC Ecology: No additional comments to make following those made on W/17/0147 and W/16/0793

Arboricultural Officer: No objections

Public Response: 14 letters of objection received raising the following concerns:-

- Proposed height of the building will overpower other buildings in the vicinity
- The proposal will lead to further overshadowing
- There will be additional overlooking into neighbouring gardens

Other non-material considerations were raised such as:-

- The original development should not have been approved

The applicants are attempting to revert back to heights proposed within the original submission

ASSESSMENT

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

- impact on character of area
- impact on neighbouring amenity

The Principle of the Development

This is an application to vary a condition attached to the previous permission for the redevelopment of the site. Condition 2, which stipulates the approved drawings in accordance with which the development should be constructed, is to be varied to reflect the revised drawings which illustrate the changes now sought. In deciding such an application the Local Planning Authority must only consider the specific amendments being sought, i.e. the proposed increase in the height of the building by a further 500mm. The principle of development cannot be re-considered as this remains acceptable as per the original approved permission.

The previously approved permission is extant and since there is no requirement to re-assess the principle of development it is therefore intended to address the key issues of visual impacts and impact on neighbouring amenity together with any other relevant matters in this report.

Impact on character of area

The table above, under the 'Details of Development' section of this report sets out the height of the building, as originally proposed, but was withdrawn prior to determination, the approved scheme and the scheme as proposed now with the 500mm increase in height. Officers acknowledge the number of objections received from neighbouring residents who have expressed concern at the fact the developers appear to be trying to revert back to something close to that which was originally rejected.

However, the 500mm increase in the ridge height, would result in the building, as currently proposed, being almost 2 metres lower than the original scheme. Overall, having regard to the extent of the approved scheme in terms of scale, mass and bulk, the proposed increase in height would not result in any detriment or additional harm to the overall character and appearance of the development than the approved scheme, nor would there be any harm to the

wider character of the surrounding area. The development is therefore considered to comply with policy DP1 of the Local Plan.

Impact on neighbouring amenity

The overall scale, mass and bulk of the approved scheme was considered acceptable in terms of its impact on the amenity of neighbouring residential properties. While concerns about the increase in height from neighbouring residents are acknowledged, a 500mm increase would not, in officers' opinion, give rise to any harmful additional impacts in terms of overbearing and overshadowing nor would it exacerbate the potential for overlooking to a degree which is materially harmful to the closest neighbouring properties.

In terms of impact on existing residential properties in the surrounding locality, it is not considered that the development, as proposed through this variation would lead to any additional or harmful impacts by reason of overbearing, overshadowing or overlooking and the proposals are therefore considered acceptable in this regard. The development therefore complies with policy DP2 of the Local Plan.

Other Matters

There are no other material changes in policy since the original decision that would lead me to reach a different conclusion on any of the key issues in the report attached to W/17/00147 or the original permission (W/16/0793).

Issuing any permission under Section 73 of the Act is tantamount to issuing a new permission for the entire development. As a consequence, any decision notice must replicate all previous conditions which are still relevant. The pre-commencement conditions attached to the original permission have not yet been discharged and it is appropriate that those conditions are carried forward accordingly to any forthcoming permission.

It is not considered there are any other new material considerations since the original permission which are relevant to this decision.

SUMMARY/CONCLUSION

The original planning permission was granted under W/16/0793 and subsequently varied through a S.73 application under ref. W/17/0147 which sought a minor revision to the design of the building. The policies and material considerations that are relevant to those decisions are set out in the associated officer reports.

The variation of condition 2 to allow an increase in the ridge height of the building by 500mm would not result in any detriment to the visual amenity of the site and surroundings or the amenity of residential properties surrounding the site. Furthermore, there are no material changes in planning policy that would lead officers to a different conclusion to that which was reached previously through the assessment and determination of the previous application. It is therefore considered that the development remains in accordance with the relevant provisions of the Development Plan.

CONDITIONS

- 1 The development hereby permitted shall begin not later than three years from the date of planning permission ref: W/16/0793, i.e. 21 July 2016. **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 numbers 1 (tree protection measures); 115A and 251E; 450F; 250F and 451E and specification contained therein, submitted on 03/06/2016; 01/07/2016; 09/02/2017; 03/03/2017.
REASON : For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.
- 3 The development hereby permitted shall not be commenced unless and until a scheme showing how either a). at least 10% of the predicted energy requirement of the development will be produced on or near to the site from renewable energy resources, or b). a scheme showing how at least 10% of the energy demand of the development and its CO² emissions would be reduced through the initial construction methods and materials has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until all the works within the approved scheme have been completed and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturer's specifications.
REASON: To ensure that adequate provision is made for the generation of energy from renewable energy resources or to achieve carbon savings in accordance with the provisions of Policy DP13 in the Warwick District Local Plan 1996-2011.
- 4 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.
- 5 Samples of the external facing materials to be used for the construction of the development hereby permitted, shall be submitted to and

approved by the District Planning Authority before any constructional works are commenced. Development shall be carried out in accordance with the approved details. **REASON:** To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy DP1 of the Warwick District Local Plan 1996-2011.

- 6 No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority and Local Highway Authority. The Construction Management Plan must include details to prevent mud and debris being passed onto the highway; wheel washing facilities; vehicle routing plan; and parking and loading/unloading of staff/construction/delivery vehicles. The Construction Management Plan shall be implemented in strict accordance with the approval of such details. **REASON:** In the interest of Highway safety and to satisfy the requirements of Policy DP6 in the Warwick District Local Plan 1996-2011
- 7 The development hereby permitted shall only be undertaken in strict accordance with details of both hard and soft landscaping works which have been submitted to and approved in writing by the local planning authority. Details of hard landscaping works shall include boundary treatment, including full details of the proposed boundary walls, railings and gates to be erected, specifying the colour of the railings and gates; footpaths; and hard surfacing, which shall be made of porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area. The hard landscaping works shall be completed in full accordance with the approved details within three months of the first occupation of the development hereby permitted; and all planting shall be carried out in accordance with the approved details in the first planting and seeding seasons following the first occupation. Any tree(s) or shrub(s) which within a period of five years from the completion of the development dies, is removed or becomes in the opinion of the local planning authority seriously damaged, defective or diseased shall be replaced in the next planting season with another of similar size and species, unless the local planning authority gives written consent to any variation. All hedging, tree(s) and shrub(s) shall be planted in accordance with British Standard BS4043 – Transplanting Root-balled Trees and BS4428 – Code of Practice for General Landscape Operations. **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 DP1, DP2 and DP3 of the Warwick District Local Plan 1996-2011.
- 8 No part of the development hereby permitted shall be commenced until a scheme for the provision of at least 2 bat boxes, bricks or access tiles to be erected on trees or buildings within the site, has been submitted to and approved in writing by the District Planning Authority. The scheme to include details of box type, location and timing of works. Thereafter, the boxes shall be installed and maintained in perpetuity. **REASON:** In accordance with the NPPF, ODPM Circular 2005/06 and to meet the objectives of Policy DAP3 in the Warwick District Local Plan

1996-2011.

- 9 The development shall not be occupied until all parts of the existing access within the public highway not included in the permitted means of access has been closed and the kerb and footway have been reinstated in accordance with the standard specification of the Highway Authority. **REASON:** In the interest of Highway safety and to satisfy the requirements of Policy DP6 in the Warwick District Local Plan 1996-2011.
- 10 The development shall not be occupied until the existing vehicular access to the site has been widened/remodelled so as to provide an access of not less than 5 metres in width, for a minimum distance of 7.5 metres as measured from the near edge of the public highway carriageway. **REASON:** In the interest of Highway safety and to satisfy the requirements of Policy DP6 in the Warwick District Local Plan 1996-2011.
- 11 The access to the site for vehicles shall not be used in connection with the development until it has been surfaced with a bound material for a minimum distance of 7.5 metres as measured from the near edge of the public highway carriageway. **REASON:** In the interest of Highway safety and to satisfy the requirements of Policy DP6 in the Warwick District Local Plan 1996-2011.
- 12 The access to the site shall not be constructed/reconstructed/widened in such a manner as to reduce the effective capacity of any drain or ditch within the limits of the public highway. **REASON:** In the interest of Highway safety and to satisfy the requirements of Policy DP6 in the Warwick District Local Plan 1996-2011.
- 13 The development shall not be occupied until visibility splays have been provided to the vehicular access to the site passing through the limits of the site fronting the public highway with an 'x' distance of 2.4 metres and 'y' distances of 43 metres to the near edge of the public highway carriageway. No structure, tree or shrub shall be erected, planted or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway. **REASON:** In the interest of Highway safety and to satisfy the requirements of Policy DP6 in the Warwick District Local Plan 1996-2011.
- 14 Gates/barriers/doors erected at the entrance to the site for vehicles shall not be hung so as to open to within 6 metres of the near edge of the public highway carriageway. **REASON:** In the interest of Highway safety and to satisfy the requirements of Policy DP6 in the Warwick District Local Plan 1996-2011.
- 15 Prior to the first occupation of the development hereby permitted the car parking area shown on drawing number 250D shall be laid out and made available and retained as such at all times thereafter. **REASON:**

To ensure that adequate parking facilities are made available for the development, in accordance with Policy DP8 in the Warwick District Local Plan 1996-2011.

- 16 The development hereby permitted shall be undertaken in the presence of a qualified bat worker appointed by the applicant to supervise all destructive works to the potential access features identified in the report entitled 'Preliminary Ecological Appraisal for Bats The Limes, Leamington' produced by Dr. Stefan Bodnar and dated October 2015. All roofing material around these features is to be removed carefully by hand. Appropriate precautions must be taken in case bats are found, such as the erection of at least one bat box on a suitable tree or building. Should evidence of bats be found during this operation, then work must cease immediately while Natural England and WCC Ecological Services are consulted for further advice. Any subsequent recommendations or remedial works will be implemented within the timescales agreed between the bat worker and the Local Authority Ecologist/Natural England. Notwithstanding any requirement for remedial work or otherwise, the qualified bat worker's report shall be submitted to the local planning authority within 1 month following completion of the supervised works to summarise the findings.
- REASON:** To ensure that protected species are not harmed by the development in accordance with Policy DAP3 in the Warwick District Local Plan 1996-2011.
-