

**Planning Committee: 4 May 2022**

**Item Number: 6**

**Application No:** [W 19 / 0531](#)

**Town/Parish Council:** Leamington Spa  
**Case Officer:** Dan Charles

01926 456527 dan.charles@warwickdc.gov.uk

**Registration Date:** 07/05/19

**Expiry Date:** 06/08/19

**Milverton House, Court Street, Leamington Spa, CV31 2BB**

Outline application for the erection of two no. blocks of residential accommodation of up to 90 bed spaces together with undercroft parking. FOR Chalice Build Ltd

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This application is being brought to Committee due to a change in circumstances relating to the Section 106 Agreement.

**RECOMMENDATION**

Planning Committee are recommended to GRANT planning permission, subject to the conditions listed at the end of this report and a Section 106 Agreement to secure the revised financial contributions and obligations as set out in the report.

Should a satisfactory Section 106 Agreement not have been completed within four months of the date of the Committee resolution, Planning Committee are recommended to delegate authority to the Head of Development Services to REFUSE planning permission on the grounds that the proposal makes inadequate provision in respect of the issues the subject of that agreement.

**DETAILS OF THE DEVELOPMENT**

This is an outline planning application for the demolition of two existing buildings known as Milverton House and Drummond House and the erection of 2 new blocks of residential accommodation to incorporate up to 90 bed spaces together with associated parking. Whilst the total number of bed spaces is identified, the overall allocation of individual residential units has not been determined in this proposal.

The existing buildings form part of the Court Street industrial estate and represent fairly modern and utilitarian commercial premises.

Indicative proposals identify a building up to 4 storeys in height on both sites with the Milverton House building staggered in height from 1 to 4 storeys.

The site lies within an area identified within the Local Plan as being within the Town Centre Boundary of Leamington Spa and is allocated for residential development, forming part of allocation H16. This allocation identifies a total of 75 dwellings within the allocation area.

The site is outside the boundary of, but in fairly close proximity to the Royal Leamington Spa Conservation Area and the Canal Conservation Area.

## **THE SITE AND ITS LOCATION**

Milverton House and Drummond House are modern industrial buildings split into a number of smaller units. Both buildings are single storey in scale and of unremarkable design.

The site of Milverton House backs onto residential properties on Tower Street to the west that are a row of maisonettes with the rear garden areas abutting the site boundary.

To the immediate north of Milverton House lies a vacant building that appears to have originally been a chapel/church but was last in use as commercial premises.

To the north and west of this building lies the recently extended Court Street car park. Court Street runs north/south to the east of Milverton House and beyond this lies the associated property, Drummond House.

To the south of the site is the access road serving Tower Street and beyond this lies the Waterside medical centre.

Drummond House is a similar, modern, single storey building of utilitarian character. This building is flanked to the east and south by other commercial premises. To the north of the site is a newly constructed residential block. Directly to the west is the site currently occupied by Milverton House.

## **PLANNING HISTORY**

No relevant planning history.

## **RELEVANT POLICIES**

- National Planning Policy Framework

### The Current Local Plan

- DS5 - Presumption in Favour of Sustainable Development
- DS11 - Allocated Housing Sites
- PC0 - Prosperous Communities
- TCP1 - Protecting and Enhancing the Town Centres
- H0 - Housing
- H1 - Directing New Housing
- H2 - Affordable Housing
- H4 - Securing a Mix of Housing
- SC0 - Sustainable Communities
- BE1 - Layout and Design
- BE3 - Amenity
- TR1 - Access and Choice (Warwick District Local Plan - 2011-2029)
- TR2 - Traffic generation (Warwick Local Plan - 2011-2029)
- TR3 - Parking (Warwick District Local Plan - 2011-2029)
- HE1 - Protection of Statutory Heritage Assets
- HS1 - Healthy, Safe and Inclusive Communities

- HS4 - Improvements to Open Space, Sport and Recreation Facilities
- HS7 - Crime Prevention
- CC1 - Planning for Climate Change Adaptation
- CC3 - Buildings Standards Requirements
- FW1 - Development in Areas at Risk of Flooding
- FW2 - Sustainable Urban Drainage
- FW3 - Water Conservation
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- NE3 - Biodiversity
- NE4 - Landscape
- NE5 - Protection of Natural Resources
- DM1 - Infrastructure Contributions

### Guidance Documents

- Parking Standards (Supplementary Planning Document)
- Open Space (Supplementary Planning Document - April 2019)
- Air Quality & Planning Supplementary Planning Document (January 2019)
- Residential Design Guide (Supplementary Planning Document- May 2018)
- Canal Conservation Area DPD
- Creative Quarter "Big Picture" Document.

### **ASSESSMENT**

The key material issue in the consideration of this revised proposal are the amendments proposed to the Section 106 Agreement Contributions.

This application was initially presented to Planning Committee on 14 July 2020 where a resolution to grant was made subject to conditions and the signing of a Section 106 Agreement to secure the following;

- Sustainable Travel Packs - £900.
- Libraries - £985.
- Off-site Highway Improvements including cycling - £20,000.
- Road Safety Contribution – £4,500.
- CCG - £8,138
- Outdoor Sport – £2,723
- Indoor Sport - £30,307
- Grass Pitches - £105,593
- Open Space Improvement - £265,608
- NHS Hospitals - £22,492.
- County Council Monitoring Fee - £500
- 40% Affordable Housing.
- Local Labour Agreement.
- Noise mitigation scheme.
- District Council Monitoring Fee.

Following this resolution to grant, the Section 106 procedure commenced. During this time, the applicant submitted a viability assessment to seek to demonstrate that the scheme was not viable if subject to affordable housing requirements and associated financial contributions.

In cases where a viability assessment is put forward, the details are assessed independently by a specialist Viability Assessor instructed by the Council.

In this case, the Council's Assessor has considered the scheme and carried out a thorough and detailed assessment of all information submitted. In making this assessment, the Assessor has challenged and tested all figures submitted by the applicant as well as carrying out his own independent assessment of the figures and market environment.

Following this robust assessment, it has been concluded that the scheme is marginally viable with an excess of £82,281 that can be put forward to Section 106 obligations.

Extracts from the non-technical summary included in the viability report undertaken for the Council are set out below:-

*This assessment considers the information provided by the Applicant, and their viability advisors, on development viability issues to support their outline planning application. We have assessed the viability of the scheme utilising the indicative layouts, plans and accommodation schedules that we have researched and assessed from the planning portal. We have also had regard to the information provided by the Applicant in their report of **December 2020**, which comprised a viability submission prepared by HEB Chartered Surveyors (HEB).*

*The Applicant and their advisors HEB propose that no affordable housing is provided by the scheme, nor any further planning contributions, having regard to the outcome of their analysis. They have also not included an allowance for CIL in their viability appraisal.*

*We have undertaken a Development Viability Appraisal using the Argus Developer software model. This is a typical model used by both developers and valuers in the market. We have made several adjustments to the assumptions applied by HEB, in particular relating to the interpretation of the GDV (Gross Development Value), construction costs and externals, professional fees, development finance, timescales, and developer's return for risk (profit). In addition to the rental model (utilised by HEB), we have undertaken a further development appraisal of the scheme proposals assuming they would be delivered as a market sale project (in light of comments from WDC Officers who have confirmed that there will not be any restrictions in the planning application that would prevent this) – i.e., they could be sold in the open market under the C3 Residential use class.*

*Our assessment generates a developer's return for risk (profit) for the proposals which is marginally higher than the target level of return on GDV. Hence, our assessment indicates that there is a surplus which could contribute to affordable housing and/or other planning contributions (over and above the assumed CIL payment of £871,841) for the scheme should it be delivered as a development available on the open market as C3 Residential in the order of **£82,281**.*

Having discussed this matter with Legal Services, the recommended allocation of Section 106 contributions is:-

CCG	£8,138
NHS	£22,492
Highway Improvements	£20,000
Road Safety	£4,500
Sustainable Travel Packs	£900.
Libraries	£985.
WCC Monitoring	£500
Sport Facilities	£10,000
Open Space	£14,286

The Section 106 Agreement will also secure a Local Labour Agreement and noise mitigation scheme.

The marginal viability of the scheme also means that no affordable housing can be provided. Notwithstanding that, the delivery of new housing is considered essential to maintain an appropriate 5-year housing supply.

The scheme is an outline application with some matters reserved. The matters being assessed as part of this proposal are access, layout and scale.

Matters relating to appearance and landscaping are reserved for later consideration under a separate reserved matters application.

## **Conclusion**

The site is allocated for residential development within the Warwick District Local Plan for up to 75 residential units. The scheme is considered to accord with the allocation.

The viability of the scheme has been independently assessed by a specialist consultant and the scheme has been considered to have a marginal excess of profit that can be provided for Section 106 Contributions. These contributions will be secured by a Section 106 Agreement.

Members are therefore requested to GRANT outline planning permission subject to the revised Section 106 contributions and conditions set out within the original report (copied below for information).

## **CONDITIONS**

### **1 Reserved Matters**

Details of the appearance and landscaping of the development (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out in strict accordance with these reserved matters as approved.

**REASON:** To comply with Article 4(1) of the Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

## 2 **Submission of Reserved Matters Timescale**

Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

**REASON:** To comply with Section 92 of the Town and Country Planning Act 1990 (as amended).

## 3 **Commencement of Development**

The development to which this permission relates shall begin within three years of the date of this permission or within two years of the final approval of the reserved matters, whichever is the later.

**REASON:** To comply with Section 92 of the Town and Country Planning Act 1990 (as amended).

## 4 **Approved Plans**

The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawing(s) 17/53/05c, and specification contained therein, submitted on 17 June 2019.

**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.

## 5 **In accordance with parameters plans**

The reserved matters submission shall be submitted in accordance with the general parameters as set out on drawing numbers 17/53/07D, 17/53/08D, 17/53/09D, 17/53/11C, 17/53/12D, 17/53/14A and 17/53/15A submitted on 17 September 2019.

**REASON :** For the avoidance of doubt and to define the scale and form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.

## 6 **Ecological and Landscaping Scheme**

No works to commence on site, including site clearance, until a combined ecological and landscaping scheme has been submitted and agreed between the applicant and the Local Planning Authority (with advice from WCC Ecological Services). The scheme must include all aspects of landscaping including details of tree/shrub species planting. The agreed scheme to be fully implemented before/during development of the site as appropriate.

**REASON:** To protect and enhance the ecological quality of the site in line with UK and European Law, the National Planning Policy Framework and Policy NE2 of the Warwick District Local Plan 2011-2029.

## 7 **Submission of drainage details**

No development shall commence unless and until a detailed surface water drainage strategy has been submitted to and approved in writing by the Local Planning Authority. The details shall include;

- Provide hydraulic modelling calculations should confirm the proposed impermeable area used.
- Demonstrate how the proposed discharge rates identified in the calculations were calculated. A minimum of 50% betterment on the existing brownfield rate should be provided.
- If discharging to a drainage system maintained/operated by other authorities (Environment Agency, internal drainage board, highway authority, sewerage undertaker, or Canals and River Trust), evidence of consultation and the acceptability of any discharge to their system should be presented for consideration.
- Demonstrate the proposed allowance for exceedance flow and associated overland flow routing.

Thereafter, the development shall be carried out in strict accordance with the approved details.

**REASON:** To ensure that adequate drainage facilities are available for the satisfactory and proper development of the site in accordance with Policies BE1 and FW2 of the Warwick District Local Plan 2011-2029.

## 8 **Noise Mitigation**

The development hereby permitted shall not be commence unless and until details of sound proofing have been submitted to and approved in writing by the local planning authority and the development has been completed in full accordance with the approved details.

**REASON:** To ensure that future occupants do not experience unacceptable levels of noise, in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.

## 9 **Details of Drainage**

No development shall commence unless and until details of surface and foul water drainage works have been submitted to and approved in writing by the local planning authority. The development shall be carried out in strict accordance with the approved details.

**REASON:** To ensure that adequate drainage facilities are available for the satisfactory and proper development of the site in accordance with Policies BE1 and FW2 of the Warwick District Local Plan 2011-2029.

## 10 **Construction Management Plan**

The development hereby permitted (including any works of demolition) shall not commence unless and until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP 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; wheel washing facilities and other measures to ensure that any vehicle, plant or equipment leaving the application site does not carry mud or deposit other materials onto the public highway; 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. A model CMP can be found on the Council's website ([https://www.warwickdc.gov.uk/downloads/file/5811/construction\\_management\\_plan](https://www.warwickdc.gov.uk/downloads/file/5811/construction_management_plan)) or by searching 'Construction Management Plan'. The development hereby permitted shall only proceed in strict accordance with the approved CMP.

**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 BE3, TR1 and NE5 of the Warwick District Local Plan 2011-2029.

## 11 **Low Emission Strategy**

No phase of the development shall commence unless and until a Low Emission Strategy for that phase has been submitted to and approved in writing by the Local Planning Authority. The Low Emission Strategy shall thereafter be implemented in strict accordance with the approved details.

**REASON:** To ensure mitigation against air quality impacts associated with the proposed development, in accordance with Policies NE5 and TR1 of the Warwick District Local Plan 2011-2029 and the aims and objectives of national guidance within the NPPF 2019.

## 12 **Details of External Lighting**

Prior to the commencement of the development, full details of all permanent lighting on the site shall be submitted to and approved in writing by the Local Planning Authority. This should follow the Institute of Lighting Professionals' Guidance Note 01/20: Guidance notes for the reduction of obtrusive light. The lighting shall be installed according to an approved plan which will need to be submitted by the applicant. The lighting should be maintained in perpetuity. Such works, and use of that lighting and/or illumination, shall be carried out and operated only in strict accordance with those approved details.

**REASON:** To ensure that any lighting is designed so as not to detrimentally affect the amenities of the occupiers of nearby properties



in accordance with Policies BE3 and NE5 of the Warwick District Local Plan 2011-2029

#### 14 **Samples of Materials**

No development shall be carried out above slab level unless and until samples of the external facing materials to be used have been submitted to and approved in writing by the local planning authority. The development shall only 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.

#### 15 **Site Levels/Finished Floor Levels**

No development other than site clearance and preparation works shall take place on any phase of the development until details of the finished floor levels of all buildings, together with details of existing and proposed site levels on that phase and the relationship with adjacent phases have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with these approved details or any subsequently approved amendments.

**REASON:** To ensure sufficient information is submitted to demonstrate a satisfactory relationship between the proposed development and adjacent land and buildings in the interests of amenity in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.

#### 17 **Landscape Replacement Planting**

Any landscaping (other than the planting of trees and shrubs) including boundary treatment, paving and footpaths referred to in condition 1 shall be completed in all respects, within the first planting season following the first occupation of the development. Any tree(s) or shrub(s) removed, dying, or becoming in the opinion of the Local Planning Authority seriously damaged, defective or diseased within five years from the substantial completion of the scheme shall be replaced within the next planting season by tree(s) or shrub(s) of similar size and species to those originally required to be planted. 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 BE1, BE3 and NE4 of the Warwick District Local Plan 2011-2029.

#### 18 **Water Efficiency**

Notwithstanding details contained within the approved documents, prior to construction of each phase of residential development a scheme for that phase demonstrating how water efficiency measures have been incorporated into the development and shall demonstrate how, consideration has been given to the incorporation of grey water and rainwater recycling measures, shall be submitted to and approved in writing by the Local Planning Authority. No dwelling shall be first occupied until the approved measures have been completed in strict accordance with the approved details and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with the any relevant manufacturer's specifications.

**REASON:** To ensure the creation of well-designed and sustainable buildings and to satisfy the requirements of Policies FW3 and CC1 of the Warwick District Local Plan 2011-2029.

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