

# Planning Committee

Tuesday 8 November 2016

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A meeting of the above Committee will be held at the Town Hall, Royal Leamington Spa on Tuesday 8 November 2016 at 6.00pm.

Councillor Cooke (Chairman)  
Councillor Ashford (Vice Chairman)  
Councillor Boad  
Councillor Mrs Bunker  
Councillor Day  
Councillor Heath  
Councillor Mrs Hill  
Councillor Morris  
Councillor Naimo  
Councillor Mrs Stevens  
Councillor Weed

## Emergency Procedure

At the commencement of the meeting the emergency procedure for the Town Hall will be displayed on screen for information.

## Agenda

### Part A – General

#### 1. Apologies and Substitutes

- (a) to receive apologies for absence from any Councillor who is unable to attend; and
- (b) to receive the name of any Councillor who is to act as a substitute, notice of which has been given to the Chief Executive, together with the name of the Councillor for whom they are acting.

#### 2. Declarations of Interest

Members to declare the existence and nature of interests in items on the agenda in accordance with the adopted Code of Conduct.

Declarations should be entered on the form to be circulated with the attendance sheet and declared during this item. However, the existence and nature of any interest that subsequently becomes apparent during the course of the meeting must be disclosed immediately. If the interest is not registered, Members must notify the Monitoring Officer of the interest within 28 days.

Members are also reminded of the need to declare predetermination on any matter.

If Members are unsure about whether or not they have an interest, or about its nature, they are strongly advised to seek advice from officers prior to the meeting.

3. **Site Visits**

The Chairman to report the location of the planning application sites visited and the names of the Committee Members who attended.

4. **Minutes**

To confirm the minutes of the Planning Committee of 11 October 2016.

**(Item 4/Page 1)**

**Part B – Planning Applications**

To consider the following reports from the Head of Development Services:

5. **W/16/1403 – 12, Antony Gardner Crescent, Whitnash** (Pages 1 to 4)
6. **W/16/1483 – 11 Balmoral Way, Cubbington** (Pages 1 to 3)
7. **W/16/1538 – 50 Newnham Road, Lillington, Royal Leamington Spa** (Pages 1 to 10)
8. **W/16/1547 – 52 Queen Street, Cubbington** (Pages 1 to 7)
9. **W/16/1558 – Tesco Express, Crown Way, Lillington, Royal Leamington Spa** (Pages 1 to 7)

**Part C – Other matters**

10. **W/02/1472 – Portobello Works, Emscote Road, Warwick** (Pages 1 to 2)
11. **Appeals Report** (To follow)

Please note:

- (a) the background papers relating to reports on planning applications are open to public inspection under Section 100D of the Local Government Act 1972 and consist of all written responses to consultations made by the Local Planning Authority in connection with the planning applications referred to in the reports, the County Structure Plan Local Plans and Warwick District Council approved policy documents.
- (b) all items have a designated Case Officer and any queries concerning those items should be directed to that Officer.
- (c) in accordance with Council's Public Speaking Procedure, members of the public can address the Planning Committee on any of the planning applications or Tree Preservation Order reports being put before the Committee. If you wish to do so, please call 01926 456114 (Monday to Thursday 8:00am to 7:00pm, Friday 8:00am to 6:00pm and Saturday 9:00am to 1pm) or email [committee@warwickdc.gov.uk](mailto:committee@warwickdc.gov.uk), anytime after the publication of this agenda, but before 12 noon on the working day before the day of the meeting and you will be advised of the procedure.
- (d) please note, that the running order for the meeting may be different to that published above, in order to accommodate items where members of the public - Have registered to address the Committee.
- (e) occasionally items are withdrawn from the agenda after it has been published. In this instance, it is not always possible to notify all parties interested in the

application. However, if this does occur, a note will be placed on the agenda via the Council's web site, and where possible, the applicant and all registered speakers (where applicable) will be notified via telephone.

Published Monday 31 October 2016

General Enquiries: Please contact Warwick District Council, Riverside House, Milverton Hill, Royal Leamington Spa, Warwickshire, CV32 5HZ.

Telephone: 01926 456114

E-Mail: [committee@warwickdc.gov.uk](mailto:committee@warwickdc.gov.uk)

For enquiries about specific reports, please contact the Case Officer named in the reports. You can e-mail the members of the Planning Committee at

[planningcommittee@warwickdc.gov.uk](mailto:planningcommittee@warwickdc.gov.uk)

Details of all the Council's committees, councillors and agenda papers are available via our website [www.warwickdc.gov.uk/committees](http://www.warwickdc.gov.uk/committees)

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The agenda is available in large print on request, prior to the meeting, by telephoning (01926) 456114

# Planning Committee

Minutes of the meeting held on Tuesday 11 October 2016 in the Town Hall, Royal Leamington Spa at 6.00 pm.

**Present:** Councillor Cooke (Chairman); Councillors Ashford, Mrs Bunker, Day, Gifford, Miss Grainger, Mrs Hill, Margrave, Naimo, Mrs Stevens and Weed.

**Also Present:** Committee Services Officers – Mrs Barnes and Miss Cox; Legal Advisor – Mr Howarth; and Development Manager – Mr Fisher.

## 80. **Apologies and Substitutes**

- (a) There were no apologies; and
- (b) Councillor Gifford substituted for Councillor Boad, Councillor Miss Grainger substituted for Councillor Morris, and Councillor Margrave substituted for Councillor Heath.

## 81. **Declarations of Interest**

Minute Number 84 – W/16/0606 – Baginton School, Church Road, Baginton

Councillor Gifford declared an interest because one of the public speakers, Mr Brown, was known to him. However, he resolved to keep an open mind.

Minute Number 85 – W/16/1174 – 32 Heathcote Road, Whitnash

Councillor Margrave declared an interest because the application site was in his Ward.

Minute Number 86 – W/16/1280 – 60 Franklin Road, Whitnash

Councillor Margrave declared an interest because the application site was in his Ward.

## 82. **Site Visits**

There were no site visits undertaken prior to the meeting, as agreed with the Chairman and following consultation with the Committee members.

## 83. **Minutes**

The minutes of the meeting held on 13 September 2016 were taken as read and signed by the Chairman as a correct record.

## 84. **W/16/0606 – Baginton School, Church Road, Baginton**

The Committee considered an application from The Lucy Price Trust (LPT) for the demolition of the existing former school building and erection of two dwellings.

## PLANNING COMMITTEE MINUTES (Continued)

The application was presented to Committee because Baginton Parish Council supported the application and officers were recommending it for refusal.

The officer was of the opinion that the proposed development of two dwellings would represent the loss of a community facility and was considered to be harmful to the openness of the Green Belt and would have a detrimental impact on the Conservation Area, and setting of a Grade I listed building. There were no public benefits which were considered to outweigh the harm caused to the Conservation Area or setting of the listed building. Furthermore, the development was considered to be harmful to the existing street scene and could also potentially cause harm to protected wildlife species. Therefore, the proposal was considered to conflict with the NPPF and the Local Plan policies and guidance stated in the officer's report.

An addendum circulated at the meeting advised Members that following the completion of the report, a bat survey had been submitted by the applicant. WCC Ecology was satisfied that this did not identify any evidence of bats. Therefore, Members noted that should they be minded to support the officer's recommendation, refusal Reason 6 detailed in the report would no longer be appropriate and could be removed from any decision.

In addition, the addendum advised that two additional public responses had been received and provided further clarification on the Emerging Local Plan position.

The following people addressed the committee:

- Councillor Hewer, representing Baginton Parish Council, in support of the application; and
- Mr Brown and Mr Hammond, in support of the application.

Following consideration of the report, presentation, information contained in the addendum and the representations made at the meeting, it was proposed by Councillor Ashford and seconded by Councillor Miss Grainger that the application should be refused in line with the recommendation in the report.

The Committee therefore

**Resolved** that W/16/0606 be **refused** for the following reasons:

- (1) the National Planning Policy Framework (NPPF) states that the essential characteristics of Green Belt are openness and permanence. Paragraph 89 determines that exceptions to inappropriate development in the Green Belt include the partial or complete redevelopment of a previously developed site, so long as it does not have a greater impact on the openness of the Green Belt.

The application site is considered to represent previously developed land, however, the

## PLANNING COMMITTEE MINUTES (Continued)

proposed dwellings are considerably larger than the existing single storey structure, providing two separate, two storey structures, rather than one single storey building, which are nearly double the floorspace of the existing school, which would have a greater impact on the openness of the Green Belt. Therefore, the proposed development is considered to be contrary to the NPPF;

- (2) 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. Paragraph 134 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage assets, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Furthermore, Local Plan policy DAP8 requires development to preserve or enhance the special architectural and historic interest and appearance of Conservation Areas. It goes on to state that development should respect the setting of Conservation Areas and should not impact on important views or groups of buildings from inside and outside of the boundary.

The proposed dwellings are considered to cause harm to the Conservation Area by reason that they do not respect the established character found within the wider area. Furthermore, the parking provision to the front of the property dominates the front aspect and is uncharacteristic within this part of the Conservation Area.

It is not considered that the public benefits which the development would bring, when considering the impact which the properties would have on the openness of the Green Belt and its rural setting, would outweigh the harm caused to the Conservation Area. The development is therefore considered to be contrary to the NPPF and Local Plan policy DAP8;

- (3) paragraph 132 of the NPPF states that when considering the impact of a proposed

## PLANNING COMMITTEE MINUTES (Continued)

development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 134 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage assets, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Furthermore, Local Plan policy DAP4 states that development will not be permitted that will adversely affect the setting of a listed building.

The proposed dwellings are considered to cause harm to the setting of the Grade I listed building, by reason that they do not respect the established character of the Conservation Area. The parking provision to the front of the property dominates the front aspect and is uncharacteristic within this part of the Conservation Area, which detracts from the character of the listed building.

It is not considered that the public benefits which the development would bring, when considering the impact which the properties would have on the openness of the Green Belt and its rural setting, would outweigh the harm caused to the setting of the listed building. The development is therefore considered to be contrary to the NPPF and Local Plan policy DAP4;

- (4) Local Plan policy DP1 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 the 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. 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 importance features; respecting the surrounding buildings and using the right materials.

## **PLANNING COMMITTEE MINUTES (Continued)**

The proposed dwellings are considered to be harmful to the existing established street scene, by reason of their siting which is inappropriate and incongruous. The development is not considered to harmonise with the existing street scene. The proposal would represent a significant departure from the existing single storey structure, providing two buildings rather than one, which is not considered to respect the existing character of the street scene. Therefore, the proposed development is considered to be contrary to the NPPF, Local Plan Policy DP1 and the Residential Design Guide; and

- (5) adopted Local Plan policy SC8 states that the redevelopment or change of use of community facilities that serve local needs will not be permitted unless: there are other similar facilities accessible to the local community by means other than a car; the facility is redundant and no other user is willing to acquire and manage it; or there is an assessment demonstrating a lack of need for the facility within the local community.

There are no other schools within walking distance of the site. There has been no formal evidence submitted by the agent to indicate that the facility is redundant, or that any other users are not willing to acquire the site. Furthermore, there has been no information provided by the agent demonstrating a lack of need for the facility within the local community. Therefore, the development would result in the loss of a community facility and the proposal is considered to be contrary to Local Plan Policy SC8.

### **85. W/16/1174 – 32 Heathcote Road, Whitnash**

The Committee considered an application from Mr and Mrs Singh for the erection of a first floor side extension and single storey front extension.

The application was presented to Committee because an objection had been received from Whitnash Town Council.

The officer was of the opinion that the proposals met the requirements of Policies DP1, DP2, DP8 and DP13 of the Warwick District Local Plan 1996-2011 and the provisions of the National Planning Policy Framework. The extensions were, on balance, considered to be in keeping and scale with the character of the host dwelling and the dwelling so extended would, it was contended, safeguard the character and appearance of the street scene. It was also contended that the enlarged property would not



## PLANNING COMMITTEE MINUTES (Continued)

adversely impact upon the amenities of neighbouring properties and would not give rise to any highway safety or ecological concerns.

Mr Woodward addressed the Committee in objection to the application.

Following consideration of the report, presentation and the representation made at the meeting, it was proposed by Councillor Ashford and seconded by Councillor Day that the application should be granted.

The Committee therefore

**Resolved** that W/16/1174 be **granted** in accordance with the recommendations in the report, subject to the following 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 in strict accordance with the details shown on the approved Location Plan and drawing numbers 2108/1 and 2108/2, received by the Local Planning Authority on 1st August 2016, except as required by condition 3 below. **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) notwithstanding the details shown on the approved drawings, the materials to be used in the construction of the external walls and roofs of the proposed extensions shall match in type, colour, texture, and shall be laid in a manner to match, those used in the construction of the external walls and main roof of the host dwelling. **Reason:** To safeguard the appearance of the host dwelling and surrounding area in accordance with Policy DP1 of the Warwick District Local Plan 1996-2011 and Sections 7 and 11 of the National Planning Policy Framework; and
- (4) the first floor window to be formed within the side (south eastern facing) elevation of the proposed first floor extension 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

## PLANNING COMMITTEE MINUTES (Continued)

metres above the floor of the room in which the window is installed. The obscured glazed window shall be retained and maintained in that condition at all times. **Reason:** To safeguard the amenities of the occupiers of 30 Heathcote Road in accordance with Policy DP2 of the Warwick District Local Plan 1996-2011.

### 86. **W/16/1280 –60 Franklin Road, Whitnash**

The Committee considered an application from Mr Lad for the erection of a single storey rear extension and erection of a new pitched roof over the existing garage and porch.

The application was presented to Committee because an objection had been received from Whitnash Town Council.

The officer was of the opinion that the proposals were in accordance with the requirements of Policies DP1, DP2, DP8 and DP13 of the Warwick District Local Plan 1996-2011 and the provisions of the National Planning Policy Framework. It was considered that the addition of the pitched roof and extension would, on balance, retain the character of the host dwelling and that the dwelling so extended would safeguard the character and appearance of the street scene. It was also contended that the enlarged property would not adversely impact upon the amenities of neighbouring properties or give rise to any highway safety concerns.

Following consideration of the report and presentation, it was proposed by Councillor Mrs Bunker and seconded by Councillor Ashford that the application should be granted.

The Committee therefore

**Resolved** that W/16/1280 be **granted** in accordance with the recommendations in the report, subject to the following 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 in strict accordance with the Location Plan, received by the Local Planning Authority on 1st August 2016, and the Existing and Proposed Site Plans, Floor Plans and Elevations, received on 23rd September 2016. **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;

## PLANNING COMMITTEE MINUTES (Continued)

- (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 CO<sup>2</sup> 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) if an air source heat pump is chosen as the method to comply with the requirement for renewable energy, noise arising from the air source heat pump(s) permitted, when measured one metre from the facade of any noise sensitive premises, shall not exceed the background noise level by more than 3dB (A) measured as LAeq (5 minutes). If the noise in question involves sounds containing a distinguishable, discrete, continuous tone ( whine, screech, hiss, hum etc.) or if there are discrete impulses (bangs, clicks, clatters, thumps etc.) or if the noise is irregular enough to attract attention, 5dB(A) shall be added to the measured level. **Reason:** To protect the amenities of the occupiers of nearby properties in the locality in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011; and
- (5) other than the proposed render, all external facing materials for the development hereby permitted shall be of the same type, texture and colour as those of the existing building. **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.

## **PLANNING COMMITTEE MINUTES (Continued)**

### **87. Planning Appeals Report**

Members received a report from officers outlining the existing enforcement matters and appeals currently taking place.

**Resolved** that the report be noted.

(The meeting ended at 7.15 pm)

**Planning Committee:** 08 November 2016

**Item Number:** 5

**Application No:** [W/16/1403](#)

**Town/Parish Council:** Whitnash

**Case Officer:**

Holika Passi

01926 456541 [holika.passi@warwickdc.gov.uk](mailto:holika.passi@warwickdc.gov.uk)

**Registration Date:** 01/09/16

**Expiry Date:** 21/10/16

**12 Antony Gardner Crescent, Whitnash, Leamington Spa, CV31 2TQ**  
Erection of a two storey side extension incorporating existing garage FOR Ms  
Brereton

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This application is being presented to Committee as the Town Council supports the application and it is recommended for refusal.

### **RECOMMENDATION**

Planning Committee are recommended to refuse planning permission for the reason set out at the end of this report.

### **DETAILS OF THE DEVELOPMENT**

The proposal is to extend the existing garage forward by 1.25m, which would be set back from the front elevation of the main house by approximately 0.3m; extend it to the rear by 0.3m to be flush with the rear elevation, and to erect a first floor extension above to also be flush with the rear elevation. The extension is to be set down by 0.15m from the height of the main ridgeline and will extend up to the side boundary with No.14.

### **THE SITE AND ITS LOCATION**

The application site relates to a semi-detached property on the south east side of Anthony Gardner Crescent, overlooking a green to the front. The side of the property forms part of the rear boundary of Nos. 14 and 15 Anthony Gardner Crescent. The property currently benefits from an integral single side garage sited approximately 10m away from the original rear wall of No. 14, and approximately 5.5m from the rear of the conservatory of No.14.

### **PLANNING HISTORY**

None Relevant

### **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)
- DP3 - Natural and Historic Environment and Landscape (Warwick District Local Plan 1996 - 2011)
- DP13 - Renewable Energy Developments (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)
- NE3 - Biodiversity (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)

#### Guidance Documents

- Residential Design Guide (Supplementary Planning Guidance - April 2008)
- The 45 Degree Guideline (Supplementary Planning Guidance)
- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Distance Separation (Supplementary Planning Guidance)

### **SUMMARY OF REPRESENTATIONS**

**Whitnash Town Council:** Support

**WCC Ecology:** No objection, subject to bat and bird notes

**WCC Archaeology:** No objection

**Public Response:** Two objections received on grounds of:

- Loss of light to garden and conservatory of No. 14
- Garden of No. 14 will feel less spacious, private and loss of quality of amenity
- Loss of outlook to No. 14
- Will be out of character with properties in the street and area (many others have gone for dormers and lower roof lines)
- Extension will be imposing

Would set a precedent for terracing in the area

### **KEY ISSUES**

#### **Assessment**

The main issues in the consideration of this application are:

- Design and impact on the character and appearance of the streetscene
- Impact on the living conditions of the occupiers of neighbouring properties
- Parking

- Renewables/ Fabric First

### Design, scale and impact on the street scene

The front and rear extensions to the garage are considered acceptable. The first floor extension is set down in height from the main roof and set back from the front elevation providing a subservient form of extension in accordance with the Council's Residential Design Guide SPG. The objection relating to terracing is noted, however, while the extension will abut the side boundary it will not create a terracing effect.

### Impact on Neighbour Amenity

There are no issues of overlooking as no side windows are proposed and due to orientation, it is not considered that the extension will cause a significant loss of light to the property.

The minimum separation distance required between the blank side gable end of the application property and the rear of No. 14 is 12m. However, the proposal only provides a distance of 10m and just 5.5m to the rear of the conservatory of No. 14. The proposal is therefore considered to be harmful to the living conditions of the occupiers of No.14 by reason of providing an unacceptable level of outlook. The rear garden area of this property will also become a cramped and oppressive space. The proposal is therefore considered to be contrary to Policy DP2 of the adopted Local Plan.

### Parking

Bringing the garage forward will not impact on the existing parking provision on site and the proposal will not increase the parking requirement in accordance with the Vehicle Parking Standards SPD. The proposal therefore accords with Policy DP8 of the Local Plan.

### Renewables

Given the limited scale of the proposed development it is considered that a requirement to provide 10% renewables/ fabric first approach in accordance with Policy DP13 and the associated SPD would not be appropriate.

### **Summary/Conclusion**

The proposal fails to accord with the Council's minimum distance separation standards and will therefore result in material harm to the living conditions of the occupiers of the neighbouring property. Accordingly, the proposal will fail to comply with Policy DP2 of the Local Plan.

### **REFUSAL REASONS**

- 1 Policy DP2 of the Warwick District Local Plan 1996-2011 states that development will not be permitted which has an unacceptable adverse impact on the amenity of nearby uses and residents.

The proposed development fails to accord with the Council's minimum distance separation standards as set out in the adopted Distance Separation Supplementary Planning Guidance. In the opinion of the Local Planning Authority the proposed development would therefore result in material harm to the living conditions of the occupiers of neighbouring properties by reason of harm to outlook and the overbearing impact on the enjoyment of the dwellings and rear gardens.

The development is thereby considered to be contrary to the aforementioned policies.



**Planning Committee:** 08 November 2016

**Item Number:** 6

**Application No:** [W 16 / 1483](#)

**Town/Parish Council:** Cubbington  
**Case Officer:** Pavan Flora

01926 456521 Pavan.Flora@warwickdc.gov.uk

**Registration Date:** 17/08/16

**Expiry Date:** 12/10/16

**11 Balmoral Way, Cubbington, Leamington Spa, CV32 7HU**  
Erection of single storey front, side and rear extension FOR Mrs Meadows  
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This application is being presented to Committee due to an objection from the Town Council having been received.

### **RECOMMENDATION**

Planning Committee are recommended to grant planning permission, subject to the conditions.

### **DETAILS OF THE DEVELOPMENT**

Erection of single storey front, side and rear extension.

### **THE SITE AND ITS LOCATION**

The application site relates to a semi-detached property located on the south side of Balmoral Way, Cubbington within a predominantly residential area with similar styled properties nearby. There is an existing driveway to the front and side of the house which leads to the garage at the rear.

### **PLANNING HISTORY**

No relevant planning history.

### **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)
- DP3 - Natural and Historic Environment and Landscape (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)

#### Guidance Documents

- The 45 Degree Guideline (Supplementary Planning Guidance)
- Residential Design Guide (Supplementary Planning Guidance - April 2008)

### **SUMMARY OF REPRESENTATIONS**

**Cubbington Parish Council** Object on grounds that the development will have an unneighbourly overbearing effect on no. 9 Balmoral Way as it breaches the 45 degree line.

**Public Response:** One objection has been received from the neighbour at 9 Balmoral Way on grounds of loss of light.

**WCC Ecology:** Recommend bat and nesting bird notes

#### **Assessment**

The main issues in the consideration of this application are:

- Design and impact on the street scene
- Impact on the living conditions of the occupiers of the neighbouring property
- Parking
- Renewables/ Fabric First

#### Design and impact on the street scene

The proposed extension would be a subservient addition which would sit comfortably on the application property and within the streetscene as a whole and would comply with Policy DP1 and the Residential Design Guide SPG.

#### Impact on the living conditions of the occupiers of the neighbouring property

Warwick District Local Plan Policy DP2 requires development to have an acceptable impact on the amenity of nearby users or residents. The Residential Design Guide provides a framework for Policy DP2, which stipulates that extensions should not breach a 45 degree line taken from the window of the nearest front or rear facing habitable room of a neighbouring property.

The neighbour and Town Council comments are noted. However, while there is a breach of the Council's adopted 45 degree line taken from the neighbour at number 9 Balmoral Way, in this case the proposed rear extension projects 3m from the rear elevation and would normally be permitted development under the Government's impact based approach. The reason planning permission is required in this case is because the extension wraps around the side of the house. It is considered that as the part of the development which breaches the

Council's 45 degree line is no more than 3 metres in depth which is acceptable under the Government's impact based approach, it would be unreasonable to refuse planning permission for this reason.

### Parking

The proposal will result in the loss of off street parking spaces to the side of the house. One space will remain to the front, which will be below the requirement for two as specified in the Council's Vehicle Parking Standards SPD. However, it is considered that there is ample spare capacity on street and the proposal will not result in material harm to residential amenity. The proposal is therefore considered to comply with Policy DP8.

### Renewables/ Fabric First

Given the limited scale of the proposed development it is considered that it would not be appropriate to require the provision of renewables/fabric first in accordance with Policy DP13 and the associated SPD.

## **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 No. 16038 002, 16038 005, 16038 004, 16038 003, 16038 001 and specification contained therein, submitted on 20th June 2016. **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 All external facing materials for the development hereby permitted shall be of the same type, texture and colour as those of the existing building. **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.

**Application No:** [W 16 / 1538](#)

**Town/Parish Council:** Leamington Spa  
**Case Officer:** Ian Lunn

**Registration Date:** 22/08/16

**Expiry Date:** 17/10/16

01926 456527 [ian.lunn@warwickdc.gov.uk](mailto:ian.lunn@warwickdc.gov.uk)

**50 Newnham Road, Lillington, Leamington Spa, CV32 7SW**

Demolition of existing garage and erection of 3 dwellings and associated car parking. FOR Miss O'Sullivan

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This application is being presented to Committee due to the number of objections received from local residents, and because an objection has also been received from the Town Council.

**RECOMMENDATION**

The Planning Committee are recommended to grant planning permission subject to conditions.

**DETAILS OF THE DEVELOPMENT**

Planning permission is sought to erect a pair of semi-detached houses and a detached house (three dwellings in all) on this site. The garage to the side of 50 Newnham Road is to be demolished in order to make way for this development.

**THE SITE AND ITS LOCATION**

The application site is an irregularly shaped plot of land of approximately 0.1 hectares in area which is enclosed on two sides by small/medium trees. It is located approximately 215 metres north west of the junction of Newnham Road and Valley Road in an area of wholly residential development. The land was apparently last used as domestic garden in conjunction with 50 Newnham Road but now appears to have fallen into disuse.

**PLANNING HISTORY**

None

**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)
- DP3 - Natural and Historic Environment and Landscape (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)
- UAP1 - Directing New Housing (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)
- H1 - Directing New Housing (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)
- HS4 - Improvements to Open Space, Sport and Recreation Facilities (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)

#### Guidance Documents

- The 45 Degree Guideline (Supplementary Planning Guidance)
- Residential Design Guide (Supplementary Planning Guidance - April 2008)
- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Vehicle Parking Standards (Supplementary Planning Document)
- Open Space (Supplementary Planning Document - June 2009)

### **SUMMARY OF REPRESENTATIONS**

**Leamington Town Council:** Object on the grounds that the proposal would represent an overdevelopment of the site, and that insufficient information has been submitted with the application to enable the ecological implications of the development to be properly judged.

**WCC Ecology:** No objections subject to conditions

**WCC Highways:** No objections subject to conditions

**WCC Archaeology:** No comments

**WDC Green Space Team:** Consider that this development will put added pressure on existing open space both locally and within the wider District. The developers should therefore be required to make a financial contribution as part of any approval which will be used to develop local open space within 500 metres of this site.

**Public Response:** 10 letters of objection, and a petition containing 15 signatures, have been received in respect of this proposal. The objections are:-

- a) that the development would appear out of keeping with the character of the area,
- b) that an approval of this proposal would not be in the best interests of highway and pedestrian safety. It would lead to increased vehicular congestion on Newnham Road which would inhibit the safe and free flow of vehicles using that highway and access for service and emergency vehicles. The proposal also makes inadequate provision for the associated parking and turning of vehicles
- c) that the houses would adversely affect the level of light currently received by, and would unacceptably overlook, neighbouring properties,
- d) that the proposal would represent an overdevelopment of the site,
- e) that an unacceptable level of noise and general disturbance would be caused by the development both during the construction works and thereafter,
- f) that the proposal would harm the habitat of local flora and fauna,
- g) that the proposal is likely to lead to damage to garden walls as a result of construction vehicles trying to access the site.

The main issues to consider when deciding this application are:-

- Principle
- Design/Scale
- Amenity
- Highway Safety
- Renewables
- Tree Issues
- Other Issues

## **Assessment**

### Principle

Given the nature of the proposals and the location of this site it is considered that the scheme needs to be considered initially against the requirements of Policy UAP1 of the Local Plan.

However, the NPPF states at paragraph 49 that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites. The Council cannot demonstrate a five year supply at present and therefore, Policy UAP1 is out of date. In such circumstances, the Local Planning Authority is required to consider the application on its planning merits.

It is considered that, on balance, the principle of the proposal is acceptable in that:-

- a) the site is located within the built-up urban area of Leamington Spa, and
- b) whilst the land was formerly used as a domestic garden and is therefore not considered to comprise brownfield land, it is considered that the proposed development will satisfactorily harmonise with its surroundings (for reasons outlined below).

In view of this, given that the surrounding development is wholly residential in nature, the proposals are considered to be acceptable in principle.

#### Design/Scale/Effect on surrounding area

The dwellings will be visible from the head of the cul-de-sac serving Newnham Road. Nevertheless it is considered that they will be acceptable in design terms despite concerns to the contrary. They will incorporate pitched 'gabled' roofs that will match others in the locality. They are also to be constructed predominantly of brick and concrete tiles with part white rendered panels to their respective front elevations, materials that have been used extensively elsewhere within the area.

The development is also considered to be acceptable in scale terms. The properties should relate in a satisfactory manner to their surroundings being two storey structures located in an area where two storey houses predominate. In order to ensure this it is proposed to impose a condition to control the finished floor levels of the buildings.

#### Amenity

The development will not adversely affect the level of light currently received by, or unacceptably overlook, neighbouring properties despite concerns to the contrary. One of the new dwellings will stand within six metres of a window contained within the gable of 52 Newnham Road to the immediate south east but

this gives light to a 'non-habitable' landing. The proposals will otherwise satisfy the Council's 'space about buildings' standards as set out within its adopted 'Residential Design Guide'.

It is considered that the future occupiers of the dwellings will also benefit from suitable amenity space each dwelling having a rear garden which is at least 11 metres long. Their outlook to the front can also be maximised through the provision of appropriate landscaping and surface treatments which can be appropriately controlled by condition.

### Highway Safety Issues

It is proposed to provide eight car parking spaces in conjunction with the development, two spaces for each of the new dwellings and two for use by 50 Newnham Road itself. This is considered to be a satisfactory level of parking for a development of this scale and nature, despite concerns to the contrary, meeting the requirements of the Council's Vehicle Parking Standards SPD.

The development is to be served by a new access road formed from the cul-de-sac at the end of Newnham Road. This is considered to be of suitable width and alignment to serve a development of this nature.

The newly constructed road will be six metres wide. Consequently it is considered that it will also be possible for cars to reverse out of the parking spaces, turn on that highway and subsequently enter Newnham Road in a forward gear.

Concern has been expressed by some local residents that an approval of this scheme would lead to vehicular congestion on Newnham Road. However, this development is likely to lead to a relatively small number of additional vehicles using the highway and this, it is contended, is unlikely to cause such problems.

The proposals have been assessed by County Highways who consider them to be acceptable subject to the imposition of suitable conditions.

### Renewables/Fabric First Approach

It is considered that the dwellings need to be designed adopting a Fabric First approach and/or incorporating renewables in order to comply with the requirements of Policy DP13 and the associated SPD. It is considered that this can be achieved by means of a suitably worded condition and a condition to this end is therefore recommended.

### Tree Issues



The site is enclosed on two sides by trees. These are visible from Newnham Road and, whilst not unduly large or of any particular merit individually, do add amenity value to the area. It is proposed to retain them as part of the development due to their position which can also be controlled by a suitably worded condition.

### Other Issues

The concerns expressed by the objectors to these proposals have been carefully considered. However, they are not considered to raise issues that are sufficient to justify a reason for refusal in this case:-

a) it is considered that a residential development of this scale is unlikely to create a significant level of noise be that from future residents or as a result of traffic generated. Furthermore, whilst accepting that some disturbance is likely to be caused during the construction works it is not considered reasonable to refuse planning permission on these grounds.

b) it is not considered that the proposals will represent an overdevelopment of the site. The layout of the development is considered to sit comfortably within the site and to relate well to the character and layout of the surrounding area. As indicated in the 'Amenity' section above it will satisfy the Council's normal 'space about buildings' standards as set out within its adopted 'Residential Design Guide'.

c) the site may be occupied by bats and nesting birds. However, it is considered that suitable mitigation measures can be put in place to ensure that they are not harmed by the development, a view supported by the County Council Ecologists. These can be controlled through the use of appropriate planning conditions and notes.

d) concerns about damage, whilst important, are not material considerations when determining a planning application.

### **Summary/Conclusion**

The proposals are considered to be in accordance with the requirements of Policies DP1, DP2, DP3, DP6, DP8, DP13, UAP1 and SC13 of the Warwick District Local Plan 1996-2011, Policy H1 of the emerging Warwick District Local Plan 2011-2029 and the provisions of the National Planning Policy Framework. It is considered that they will meet the requirements of adopted planning policy for development of this nature, that the new dwellings will appear in keeping and scale with their surroundings, that the proposals will safeguard the amenities currently enjoyed by neighbouring properties and that they will not give rise to any undue highway safety or ecological concerns.

## **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 drawing numbers 950-01 and Newn-01, received by the Local Planning Authority on 22nd August 2016, and drawing numbers 950-02 Rev B and 950-03 Rev B, received on 25th October 2016. **REASON:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies DP1, DP2 and DP3 of the Warwick District Local Plan 1996-2011.
- 3 Samples of the materials to be used in the construction of the external walls and roofs of the proposed dwellings shall be submitted to, and approved in writing by, the Local Planning Authority before development commences. The dwellings shall be constructed using the approved materials and shall thereafter be satisfactorily retained at all times. **REASON:** To safeguard the character and appearance of the area in accordance with Policies DP1 and DP3 of the Warwick District Local Plan 1996-2011.
- 4 Details of the height and design of the proposed boundary treatment, including the proposed treatment between the individual houses, shall be submitted to, and approved in writing by, the Local Planning Authority before development commences. The approved boundary treatment shall be constructed in accordance with the approved details, and erected in the approved positions, before the dwellings hereby approved are first occupied and shall thereafter be satisfactorily retained at all times. **REASON:** To safeguard the character and appearance of the area in accordance with Policies DP1 and DP3 of the Warwick District Local Plan 1996-2011.
- 5 Details of the proposed means of surfacing, sealing and draining the new access road, parking areas, footways and other external hard surfaced areas shall be submitted to, and approved in writing by, the Local Planning Authority before development commences. These areas shall be surfaced, sealed and drained in accordance with the approved details, and the parking areas laid out as shown on approved drawing number 950-02 Rev B, before any the dwellings hereby approved are first occupied. They shall thereafter be retained at all times solely for the parking and turning of vehicles in conjunction with the dwellings hereby approved, to allow vehicles and pedestrians access to and from the site, and for use by occupiers of the properties. **REASON:** In the

interests of the visual amenity of the area and highway safety, in accordance with Policies DP1, DP3, DP6 and DP8 of the Warwick District Local Plan 1996-2011

6 Development shall not commence until a scheme showing 2 bat boxes and 2 bird boxes installed to trees or buildings within the site, has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include details of the box type and their location. The approved boxes shall be installed in the approved positions before the dwellings hereby approved are first occupied and shall thereafter be satisfactorily retained at all times. **REASON:** To safeguard protected species in accordance with Policy DP3 of the Warwick District Local Plan 1996-2011.

7 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.

8 Notwithstanding the submitted details 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 CO<sup>2</sup> 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.

- 9 If an air source heat pump is chosen as the method to comply with the requirement for renewable energy, noise arising from the air source heat pump(s) permitted, when measured one metre from the facade of any noise sensitive premises, shall not exceed the background noise level by more than 3dB (A) measured as LAeq (5 minutes). If the noise in question involves sounds containing a distinguishable, discrete, continuous tone ( whine, screech, hiss, hum etc.) or if there are discrete impulses (bangs, clicks, clatters, thumps etc.) or if the noise is irregular enough to attract attention, 5dB(A) shall be added to the measured level. **REASON:** To protect the amenities of the occupiers of nearby properties in the locality in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011.
- 10 No trees located along the north western and south western boundaries of the site shall be lopped, topped, felled, removed or damaged in any way either before, during or after the construction of the development. **REASON:** To safeguard the character and appearance of the area in accordance with Policies DP1 and DP3 of the Warwick District Local Plan 1996-2011.
- 11 The development hereby permitted shall be undertaken in the presence of a qualified bat worker appointed by the applicant to supervise destructive works to the roof, loose brickwork, soffits and weatherboarding associated with the garage to be demolished. All roofing material shall 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 one month following completion of the supervised works to summarise the findings. **REASON:**To safeguard protected species in accordance with Policy DP3 of the Warwick District Local Plan 1996-2011.
- 12 No windows or other openings, other than those shown on the approved plans, shall at any time be formed within the approved dwellings unless otherwise agreed in writing by the Local Planning Authority. **REASON:** To safeguard the amenities of the occupiers of the surrounding dwellings in accordance with Policy DP2 of the Warwick District Local Plan 1996-2011.

- 13 All windows to be formed within the gable elevations of the approved dwellings 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 windows shall be retained and maintained in that condition at all times. **REASON:** To safeguard the amenities of the occupiers of the surrounding dwellings in accordance with Policy DP2 of the Warwick District Local Plan 1996-2011.
- 14 The finished floor levels of the dwellings shall be set at the levels shown on approved drawing number 950-02 Rev B. **REASON:** So as to ensure that the development harmonises with its surroundings in accordance with Policies DP1 and DP3 of the Warwick District Local Plan 1996-2011.
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**Planning Committee:** 08 November 2016

**Item Number:** 8

**Application No:** [W 16 / 1547](#)

**Town/Parish Council:** Cubbington  
**Case Officer:** Helena Obremski  
01926 456531 Helena.Obremski@warwickdc.gov.uk

**Registration Date:** 28/09/16  
**Expiry Date:** 23/11/16

**52 Queen Street, Cubbington, Leamington Spa, CV32 7NA**

Proposed change of use from shop to two bedroom dwelling. FOR Mr Graham Soden

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This application is being presented to Committee due to support from the Parish Council and a letter of support from Cllr Redford having been received.

**RECOMMENDATION**

Planning committee are recommended to refuse planning permission.

**DETAILS OF THE DEVELOPMENT**

The proposal seeks change of use of the existing ground floor A1 retail unit to a two bedroom dwelling. The proposal also includes the installation of doors and windows to facilitate the change of use.

**THE SITE AND ITS LOCATION**

The application relates to a two and single storey property, positioned to the south of Queen Street. The property is adjoined to an existing residential dwelling and brewery to the rear of the site and forms part of the Cubbington Local Shopping Centre and Conservation Area.

**PLANNING HISTORY**

W/79/0208 - application granted for the erection of a single storey rear extension to bakery.

W/85/0911 - application granted for the erection of a store.

W/86/0521 - application granted for the erection of 2 refrigerators.

**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)
- DP3 - Natural and Historic Environment and Landscape (Warwick District Local Plan 1996 - 2011)
- DP12 - Energy Efficiency (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)
- UAP4 - Protecting Local Shopping Centres (Warwick District Local Plan 1996 - 2011)
- DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)
- DAP9 - Unlisted Buildings in Conservation Areas (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)
- 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)
- HS4 - Improvements to Open Space, Sport and Recreation Facilities (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TC17 - Local Shopping Facilities (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)

## **SUMMARY OF REPRESENTATIONS**

**Cubbington Parish Council:** Supports proposal. The Council would usually object to a loss of retail premises, however, the history of these premises means the Council concludes that it would be unlikely to be able to support a retail use. The Council would prefer the unit is converted into a useful purpose, rather than remain empty. The Council requests that open space contributions are put towards the improvement of Austen Court.

**Cllr Redford:** Supports the proposal as the premises have been empty for approximately 2 years and no retailer has come forward during this time to lease the premises. Previous businesses leasing the shop have failed. Concern that the property will become rundown and dilapidated without use. Notes that the

property positioned opposite to the application site was converted from a shop into two dwellings which enhanced the wider area.

**WCC Highways:** No objection, no parking has been provided, however, no parking was provided for the retail unit either. As a result, vehicles will have to park on the public highway and there are several existing properties in close proximity to the site which do not have off street parking. As there have been no accidents reported within the last 5 years, there would be no highway safety concerns.

**WCC Ecology:** No objection, subject to the inclusion of bat and nesting bird notes.

**Contract Services:** No objection, storage space is required for 2 x wheelie bins and recycling bags and boxes.

**Open Space:** No objection, recommends that the Parish Council identifies what open space improvements can be made and that an appropriate sum for a two bedroom dwelling would be £1,256 in line with the Open Space SPD.

## **ASSESSMENT**

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

- Principle of the change of use
- The impact on the character and appearance of the area
- The impact on landscape and heritage assets
- The impact on living conditions of nearby dwellings
- Car parking and highway safety
- Sustainability
- Waste storage
- Ecological impact
- Health and Community Protection
- Open space
- Health and Wellbeing

### Principle of the change of use

The application site falls within a local shopping centre. Adopted Local Plan policy UAP4 and emerging Local Plan policy TC17 seek to protect local shopping centres; changes of use from Use Class A to all other uses will not be permitted unless the proposal is for a community service or facility which can be demonstrated to meet a particular local need and which can be satisfactorily controlled by a planning condition.

The proposal seeks to change the existing retail unit (use class A1) to a residential dwelling (use class C3). A dwellinghouse is not considered to represent a community service or facility and therefore the development is not considered to be acceptable in principle.



The Parish Council and Cllr Redford have supported the proposal as they have concerns that the property is unlikely to attract further retail interest and the history of these premises leads the Parish Council to conclude that it would be unlikely to be able to support a retail use. Cllr Redford states that the site has been vacant for two years and that the property will become rundown and dilapidated without use. They note that the property positioned opposite to the application site was converted from a shop into two dwellings which enhanced the wider area.

The agent has provided a written document to show that the owners of the site have privately marketed the unit, via advertising the unit locally in shop windows, the village notice board and by word of mouth without any success since July 2014. However, no evidence has been presented to show that the unit has been actively, formally marketed through an estate agent without success which would have a much wider reach than locally advertising the property. There is also no evidence to show that all other options have been pursued to find a new user. The written document provided by the agent states that the owners were unable to find new tenants, but there is no evidence to support this. This property has been used as a local shop for many years, and it is considered that the loss of this A1 floor space in this location would be detrimental to the area. It is considered that this is a suitable location for a local shop as it is situated within close proximity to other facilities and shops, and to lose this would represent a further erosion of local facilities. The fact that the last business was not viable in this location is not justification to permanently lose this retail floor space in the area.

The development would be contrary to adopted Local Plan policy UAP4 and emerging Local Plan policy TC17 and the evidence presented in favour of the change of use would not outweigh the harm caused by the loss of the retail unit.

#### 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 1996 - 2011 policy DP1 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 the 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.

The change of use of the existing retail unit to a dwellinghouse would also require the installation of additional doors and windows. So long as these were constructed from matching materials to those of the existing dwelling which can

be secured by condition, it is not considered that this would have a harmful impact on the street scene.

The development is therefore considered to be in accordance with the NPPF and adopted Local Plan policy DP1.

#### The impact on landscape and heritage assets

Warwick District current Local Plan policy DAP8 requires development to preserve or enhance the special architectural and historic interest and appearance of Conservation Areas. It goes on to state that development should respect the setting of Conservation Areas and should not impact on important views or groups of buildings from inside and outside of the boundary. Emerging Local Plan policy HE2 requires that new development within the Conservation Area should make a positive contribution to the local character and distinctiveness of the Conservation Area. Current Local Plan policy DAP9 relating to unlisted buildings in Conservation Areas reiterates this by stipulating that alterations and extensions should be refused where they adversely affect the character, appearance or setting of a Conservation Area.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty when exercising planning functions to pay special attention to the desirability of preserving or enhancing the character of a conservation area.

Paragraph 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. Paragraph 134 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage assets, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

The proposed change of use would not significantly impact on the Conservation Area. The proposed windows and doors can be conditioned to be constructed from matching materials to those of the existing dwelling which would ensure that the most appropriate materials are used. The proposal is not considered to cause harm to the Conservation Area.

The Conservation Officer has no objection to the proposal, and recommends that permitted development rights are removed to ensure that the original character of the property is retained. He requests that all external joinery should be in painted timber, which can be secured by condition.

The proposal is therefore considered to comply with adopted Local Plan policy DAP8, DAP9 and emerging Local Plan policy HE2.

#### The impact on living conditions of nearby dwellings

Warwick District Local Plan policy DP2 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 proposed change of use would not have a detrimental impact on the living conditions of the occupiers of neighbouring properties as there will be no extensions to the existing property or overlooking caused.

The proposal is therefore considered to comply with adopted Local Plan policy DP2.

#### Car parking and highway safety

WCC Highways have commented on the application and have no objection to the proposed change of use. They state that no parking has been provided for the proposed dwelling, however, no parking was provided for the retail unit either. They state that as a result, vehicles will have to park on the public highway and there are several existing properties in close proximity to the site which do not have off street parking. WCC Highways conclude that as there have been no accidents reported within the last 5 years, there would be no highway safety concerns.

#### Sustainability

As the proposed change of use would not significantly increase the energy demands of the unit, it is not considered appropriate to require sustainable energy provision.

#### Waste storage

Contract Services have been consulted and require storage space for 2 x wheelie bins and recycling bags and boxes for the proposed residential dwelling. There is ample space to the rear of the property to accommodate this requirement.

#### Ecological impact

WCC Ecology have assessed the application and recommend that bat and nesting bird notes are attached to any approval granted.

#### Health and Community Protection

Environmental Health comments are expected prior to the planning committee meeting and will be added.

#### Open space

The Open Space team have suggested that a contribution of £1,256 would be an appropriate contribution to request from the applicant in line with the Open Space SPD. However, they recommend that the Parish Council identifies what open space improvements can be made. Cubbington Parish Council state that

improvements to Austen Court are still required and request that the contribution be put towards this project.

Paragraph 31 of the NPPF provides that contributions should not be sought from developments of 10-units or less which is a material consideration and carries significant weight. As there has been no *detailed* information given by the Open Space team or Parish Council as to what scheme the contribution could be put towards, it is not considered reasonable to request this sum from the application. Departure from the NPPF should only be considered if exceptional circumstances are present and it is considered that the current circumstances would not represent justification to depart from policy contained within the NPPF. It would therefore not be reasonable to impose a condition for the requirement of open space contributions in accordance with the NPPF.

Health and Wellbeing

There are no health and wellbeing issues raised.

**CONCLUSION**

In conclusion, the proposed change of use would not adversely affect the character and appearance of the area and will not have a detrimental impact on local residents. However, when balanced against the potential loss of this retail use, it is considered that there is no justification for the change of use. The development would be contrary to adopted Local Plan policy UAP4 and emerging Local Plan policy TC17 as it would not replace the existing unit with a community service or facility. The evidence presented by the agent in support of the change of use would not outweigh the harm caused by the loss of the retail unit to this local shopping centre which would have a long term impact on the area.

**REFUSAL REASONS**

- 1 Adopted Local Plan policy UAP4 emerging Local Plan TC17 seek to protect local shopping centres and changes of use from Use Class A to all other uses will not be permitted unless the proposal is for a community service or facility which can be demonstrated to meet a particular local need and which can be satisfactorily controlled by a planning condition.

The proposal seeks to change the existing retail unit (use class A1) to a residential dwelling (use class C3). A dwellinghouse is not considered to represent a community service or facility and therefore the development is not considered to be acceptable in principle.

The evidence presented by the agent in support of the change of use would not outweigh the harm caused by the loss of the retail unit to this local shopping centre which would have a long term impact on the area.

**Application No:** [W 16 / 1558](#)

**Town/Parish Council:** Leamington Spa  
**Case Officer:** Ian Lunn

**Registration Date:** 23/08/16  
**Expiry Date:** 18/10/16

01926 456527 [ian.lunn@warwickdc.gov.uk](mailto:ian.lunn@warwickdc.gov.uk)

**Tesco Express, Crown Way, Lillington, Leamington Spa, CV32 7SE**

Application for variation of condition 13 of planning permission number W09/0351 to allow the delivery of goods to, and the removal of refuse from, the retail unit between 7.30am and 8am and 9.30am and 7pm Mondays to Fridays; 8am and 7pm on Saturdays; and 9am and 6pm on Sundays and Bank Holidays.

FOR Tesco Stores Ltd

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This application is being presented to Committee because of the number of objections received. The Town Council has also objected.

**RECOMMENDATION**

That Planning Committee agree to vary Condition 13 of planning permission number W/09/0351 to allow for deliveries to, and refuse collection from, the premises between the hours specified below, and to the imposition of a further condition requiring the noise reduction measures set out in the submitted Noise Assessment to be put in place whilst those deliveries/refuse collections are taking place.

**DETAILS OF THE DEVELOPMENT**

Approval is sought to vary condition 13 of planning permission W/09/0351 to allow deliveries to, and refuse collections from, the store between the hours of 7.30am and 8am and 9.30am and 7pm Mondays to Fridays, 8am and 7pm on Saturdays, and 9am and 6pm on Sundays and Bank Holidays. The current requirement for delivery vehicles to turn off their refrigeration plant whilst stationary at the site will remain.

**THE SITE AND ITS LOCATION**

The building the subject of this application is a freestanding part two/part single storey structure constructed of red brick under a part pitched concrete tile/part flat roof. It is located due south of the junction of Cubbington Road (B4453) and Crown Way in an area of predominantly residential development. The building is currently used as a retail store at ground floor level with a residential flat above.

## **PLANNING HISTORY**

W/09/0349 - Alterations to ground floor elevations - Approved 03/08/09

W/09/0350 - Installation of plant equipment - Approved 03/08/09

W/09/0351 - Erection of 42 square metre single storey rear extension and change of use of first floor to residential use (Class C3) - Approved 17/09/09

W/09/0352 - Installation of signage - Approved 03/08/09

## **RELEVANT POLICIES**

- National Planning Policy Framework

### The Current Local Plan

- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP9 - Pollution Control (Warwick District Local Plan 1996 - 2011)

### The Emerging Local Plan

- BE3 - Amenity (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)

## **SUMMARY OF REPRESENTATIONS**

**Leamington Town Council:** Object. Concerned that the proposal would lead to increased noise and disturbance to local residents.

### **WDC Health and Community Protection - Environmental Sustainability**

**Section:** Consider that early mornings and late evenings are the most noise sensitive times when local residents are most likely to be disturbed by noise. As such they consider that the delivery/refuse collection times should be limited to between the hours of 7.30am and 8am and 9.30am and 7pm Monday to Friday; 8am to 7pm on Saturdays; and 9am and 6pm on Sundays and Bank Holidays. They also recommend that a condition is imposed requiring that deliveries and refuse collections are carried out in accordance with the noise reduction measures set out within section 5 of the submitted Noise Assessment.

**WCC Highways:** Views awaited and will be reported to Members at the meeting itself. However, it is not anticipated that they will raise any concerns.

**Public Response:** 13 letters (including letters from Councillors Boad and Davies) and a petition containing 11 signatures have been received in respect of this proposal. The objections are:-

a) that an approval of this proposal would lead to an unacceptable increase in noise in the area. Such problems are already arising as a result of the number of delivery lorries visiting the site,

b) that an approval of this proposal would not be in the best interests of highway and pedestrian safety. It would lead to an increase in traffic visiting the premises exacerbating existing problems of congestion; conflict is already arising between cars and delivery vehicles as a result of the latter making deliveries within the car park; and highway safety issues are also arising as a result of delivery vehicles parking on adjoining roads.

c) that the extended hours will necessitate the use of security lighting in the winter months. Such lighting does, and will continue to, disturb local residents.

d) that there is no need to alter the existing delivery and refuse collection times as Tesco have operated successfully for the last seven and a half years without doing so,

e) that Tesco don't comply with their current delivery/refuse collection restrictions and are causing overnight noise problems,

f) that rats are being attracted to the site.

In order to overcome the above concerns it has been suggested that deliveries to the retail unit, and refuse collections from it, are limited:-

a) to between the hours of 7.30am and 8am and 9.30am and 6pm Monday to Friday with all other times remaining as originally approved, or

b) to between the hours of 10am and 5pm on any day of the week.

## **Assessment**

### Background

Planning permission was granted in September 2009 allowing for the extension of a former public house ('The Walnut Tree') and the change of use of the first floor to residential use (W/09/0351). The building was then converted into a retail store at ground floor level (Tesco Express) as 'permitted development'. The planning permission was granted subject to a number of conditions one of which (condition 13) restricted, and still restricts, the times when deliveries may be made to, and refuse collections may be made from, the premises. This was

imposed in order to safeguard the amenity of surrounding residents. In full this condition read (and still reads):-

*'The delivery of goods to the retail unit on this site and the removal of refuse from it shall only occur between the hours of 0730 to 0800 hours and 0930 to 1300 hours Monday to Friday, 0800 to 1800 hours on Saturdays and 0900 to 1800 hours on Sundays and Bank Holidays. All refrigeration plant on stationary delivery vehicles within the application site shall be switched off at all times.'*

The applicants (Tesco Stores Ltd) would now like to extend these hours to enable them to adapt to more recent changes in shopping trends and meet customer demand. They contend that fewer people now tend to do one weekly shop in a large retail store preferring instead to 'top up' more regularly in smaller convenience stores such as this. They therefore contend that they need a more flexible delivery/refuse collection regime. Originally they proposed to make deliveries and refuse collections to/from the premises between the hours of 7.30am and 8am and 9.30am and 9pm Mondays to Fridays, and between 7.30am and 9pm on weekends and Bank Holidays. However, they have since agreed to reduce these to between 7.30am and 8am and 9.30am and 7pm Mondays to Fridays, 8am and 7pm on Saturdays, and 9am and 6pm on Sundays and Bank Holidays.

#### Amenity Issues

This site is located within a predominantly residential area. Consequently, these proposals could potentially lead to disturbance of local residents especially if deliveries and refuse collections were to be undertaken unduly early in the morning or late at night. However, the revised proposals (which amount to an extra six hours between 1pm and 7pm Mondays to Fridays, an extra hour between 6pm and 7pm on Saturdays with no change on Sundays or Bank Holidays) are such that those deliveries/collections are not now proposed to be made at unduly early or late times of the day and in the main will be made during daytime hours when a degree of noise could reasonably be expected. Additionally, the applicants have submitted an Environmental Noise Assessment which recommends that certain noise mitigation measures are undertaken and retained at all times when those deliveries/collections are being made. These include ensuring that vehicle engines and vehicle radios are switched off when lorries are unloading and that staff work quietly when outside of the shop. With this in mind, and subject to a further condition requiring that the noise mitigation measures are fully implemented, it is considered that altering the delivery and refuse collection times to those now proposed will not unduly affect the amenity of local residents despite concerns to the contrary. The proposal has been



considered by the Council's WDC Health and Community Protection - Environmental Sustainability Service who support this view.

### Other Issues

The concerns expressed by the objectors to this proposal have been considered. However, they are not considered to raise issues that would be sufficient to justify the refusal of this proposal:-

a) it is not envisaged that the proposal will give rise to any undue highway safety concerns. Whilst it is likely to lead to an increase in the number of delivery and refuse vehicles visiting the site this increase will not be so great as to lead to the site becoming unduly congested with vehicles. Conflict between such vehicles and customer cars should not arise either because the store also benefits from a dedicated delivery bay which is separate from the main car park and which is available for delivery/refuse vehicles to use. Should delivery or refuse vehicles park on surrounding roads where there are parking restrictions they may be subject to action by the Police and/or Traffic Enforcement Officers.

b) a condition is attached to the original planning permission which requires the applicants to obtain the approval of the Local Planning Authority if they wish to install additional lighting on the premises. It would therefore remain possible for the Local Planning Authority to safeguard surrounding residents from undue light pollution should further proposals come forward.

c) The applicant has explained why they are proposing to alter their delivery/refuse collection times (see 'Background' section above),

d) The concerns raised about Tesco's alleged failure to comply with their current delivery/refuse collection restrictions are being reviewed by the Council's enforcement team. Concerns regarding excessive noise arising from the site can be considered, and where appropriate addressed, through separate Environmental Health legislation.

e) Extending the hours during which refuse may be collected may help to reduce any incidences of rats which should be reported to the Council's Environmental Health Team.

### **Summary/Conclusion**

It is considered that the proposal accords with the requirements of Policies DP2 and DP9 of the Warwick District Local Plan 1996-2011 and the provisions of the National Planning Policy Framework. It is contended that, subject to the imposition of a condition requiring the implementation of the specified noise minimisation measures, extending the delivery and refuse collection times as proposed will not harm the amenities of surrounding residents.

## **CONDITIONS**

- 1 The approved plans are drawing numbers 3603/(P)101/App(iii); /(P)201/aPP(iv); /(P)501/App(vi) and GC/31384.001/C and the details contained within the application submitted on 20th April 2009 as amended by the applicants agents letters dated 1st July 2009 and 19th August 2009. **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.
- 2 The existing boundary treatment shall be retained at all times. **REASON:** To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.
- 3 No materials, plant or equipment of any description including skips or containers, shall be stacked, stored or deposited on any open area of the site. **REASON:** To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.
- 4 The screen fences enclosing the service bay shall be retained at their current height at all times. **REASON:** To protect the amenity of adjacent residents in accordance with Policies DP1, DP2 and DP9 of the Warwick District Local Plan 1996-2011.
- 5 The first floor of the building shall be used solely for residential purposes. **REASON:** To ensure a satisfactory form of development and to ensure the total floor area of the building in retail use does not exceed that shown on the approved plans in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.
- 6 No external lighting or sound amplification or tannoy system shall be installed on any external wall or roof of any building or within the open land comprised in the application site other than in accordance with details first submitted to, and approved in writing by, the Local Planning Authority. **REASON:** To protect the amenity of the occupiers of nearby properties, and to satisfy the requirements of Policy DP9 of Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.
- 7 All car, disabled car, resident and cycle parking spaces, and the associated footpaths and pedestrian routes, shall be kept available for their specified purpose at all times.

**REASON:** To ensure that satisfactory parking/pedestrian provision is retained in conjunction with the development to meet the requirements

of Policies DP1, DP2 and DP8 of the Warwick District Local Plan 1996-2011.

- 8 The delivery of goods to the retail unit on this site and the removal of refuse from it shall only occur between the hours of 0730 to 0800 hours and 0930 to 1900 hours Monday to Friday, 0800 to 1900 hours on Saturdays and 0900 to 1800 hours on Sundays and Bank Holidays. All refrigeration plant on stationary delivery vehicles within the application site shall be switched off at all times.

**REASON:** To protect the amenity of the adjacent residents in accordance with Policies DP1, DP2 and DP9 of the Warwick District Local Plan 1996-2011.

- 9 The noise reduction measures set out in the Environmental Noise Assessment by Sharps Redmore and dated 2nd March 2016 shall be implemented in full and retained in place at all times that the extended delivery and refuse collection hours are in operation. **REASON:** To protect the amenity of the adjacent residents in accordance with Policies DP1, DP2 and DP9 of the Warwick District Plan 1996 – 2011.

- 10 The retail unit on this site shall only be open to the public between the hours of 0600 and 2300 hours. **REASON:** To protect the amenity of the adjacent residents in accordance with Policies DP1, DP2 and DP9 of the Warwick District Plan 1996 – 2011.

- 11 The service vehicle turning area shall be retained at all times solely for the use of delivery and refuse vehicles. **REASON:** In the interests of highway safety in accordance with the requirements of Policies DP6 and DP7 of the Warwick District Local Plan 1996-2011.

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**Application No:** W/02/1472

**Town/Parish Council:** Warwick

**Case Officer:** Gary Fisher

01926 456502 gary.fisher@warwickdc.gov.uk

**Portobello Works, Emscote Road, Warwick, CV34 5QU**

Residential and Office Development; New road bridge across the River Avon together with appropriate supporting infrastructure

For Gallagher and Pettifer Estates

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**INTRODUCTION**

This report relates to the above planning permission which was granted by Planning Committee in August 2004. That permission was subject to a Section 106 Agreement which imposed a range of obligations on the developer. This included a requirement for affordable housing. The applicant has requested that the provisions of the Section 106 agreement in relation to affordable housing are varied.

**RECOMMENDATION**

Planning Committee are recommended to resolve to vary the Section 106 agreement to allow changes to the affordable housing provision as requested by the applicant.

**DETAILS OF THE VARIATION**

The applicant has requested that the affordable housing provisions of the Section 106 Agreement be revised to enable the provision of the last 2 affordable homes to be provided by way of a financial contribution of £150,000 towards the provision of affordable housing within the District as opposed to their provision within the site as required by the agreement.

**RELEVANT POLICIES**

- National Planning Policy Framework
- SC1 - Securing a Greater Choice of Housing (Warwick District Local Plan 1996 - 2011)
- SC11 - Affordable Housing (Warwick District Local Plan 1996 - 2011)
- Affordable Housing (Supplementary Planning Document - January 2008)
- H2 - Affordable Housing (Warwick District Local Plan 2011-2029 Publication Draft - published April 2014)

**ASSESSMENT**

The main issue relevant to the consideration of this matter is whether the amended proposals would continue to enable the provision of an adequate amount and type of affordable housing, having regard to the Council's policies and national planning guidance.

Since the grant of planning permission, over the last 10 years the development of the site has proceeded in a protracted manner which has included long periods when works have ceased and the development has remained part complete along with changes in ownership. Nevertheless, notwithstanding those difficulties, affordable housing has been provided as part of the wider development at the level agreed.

The Council's Housing Strategy and Development Manager has been working in close partnership with the owners and developers of the site to ensure that the required provision has been made. As part of that collaboration, this proposal has arisen because the 2 x 4 bedroomed properties allocated as the final element of the affordable housing provision for the scheme have not been taken up by any registered social housing providers.

This is because there is considered to be a greater need for 3 bed houses to meet current demand but is also linked to the higher level of rent that would be payable for such larger houses which also make them less attractive to prospective occupants.

Your Housing Strategy and Development Manager considers the alternative of the contribution of £150,000 to comprise an appropriate solution in the circumstances which will ensure that appropriate provision is made, albeit not within the application site itself which will be in compliance with the Council's policies.

### **SUMMARY / CONCLUSION**

The proposed changes to the affordable housing provisions of the Section 106 Agreement are considered to be in accordance with the Council's policies and it is therefore it is recommended that the Section 106 Agreement is amended as requested.