

**Planning Committee:** 07 November 2017

**Item Number: 8**

**Application No:** [W 17 / 1811](#)

**Town/Parish Council:** Kenilworth  
**Case Officer:** Dan Charles

**Registration Date:** 29/09/17  
**Expiry Date:** 24/11/17

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**23 Windy Arbour, Kenilworth, CV8 2AT**

Erection of 1no. bungalow to rear of 23 Windy Arbour FOR Mr R Bailly

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This application is being presented to Committee due to an objection from the Parish/Town Council having been received.

**RECOMMENDATION**

That Planning Permission is GRANTED subject to conditions.

**DETAILS OF THE DEVELOPMENT**

The proposal is for the erection of a single bungalow on the site of a modern, offset pitched roof design. The proposed bungalow is to have 3 bedrooms.

The ground level of the site is to match the garden area of No. 21 Windy Arbour and the site is to be levelled to create a level site approximately 700mm lower than the ground level of No. 29a and 29b Windy Arbour.

The proposed dwelling has an offset, overlapping pitched roof with an overall height of 4.1m to the highest ridgeline. The eaves are also marginally offset with a height of 2.5m on the southern elevation and 2.6m on the northern boundary.

The overall footprint and gross floorspace of the dwelling is 152m<sup>2</sup>.

The site will be accessed via the existing driveway serving No. 29a and 29b Windy Arbour that links onto an existing gravelled vehicular access serving the parcel of land. The proposed boundary treatment is for the provision of a 2.4m high 'living wall' as measured from the ground level of the adjacent properties. The 'living wall' is a modern feature that provides a screening solution that has the security benefits of a long lasting fence with the aesthetic and environmental benefits of a hedge.

Parking is provided to the front of the dwelling for 2 vehicles and includes a turning area within the site boundary.

## **THE SITE AND ITS LOCATION**

The plot of land lies to the rear of No. 23 Windy Arbour. The land appears to have originally been part of the garden area but has been fenced off into a separate parcel of open scrubland contained by existing close boarded fencing.

The site is accessed off an existing hard surfaced drive serving No. 29a and 29b Windy Arbour, a pair of modern bungalows constructed to the rear of No. 29 Windy Arbour.

The site abuts the rear garden areas of No. 29a and 29b Windy Arbour to the north, the rear garden boundary of No. 23 to the East, the garden area of No. 21 to the south and the rear garden areas of 32, 34 and 26 Moseley Road to the west.

The area of land is roughly rectangular and measures 576m<sup>2</sup> in area (excluding the access drive but including the parking area to the front of the proposed dwelling).

There are no environmental designations affecting the site.

## **PLANNING HISTORY**

None relevant to land.

## **RELEVANT POLICIES**

- National Planning Policy Framework
- DS5 - Presumption in Favour of Sustainable Development (Warwick District Local Plan 2011-2029)
- H0 - Housing (Warwick District Local Plan 2011-2029)
- H1 - Directing New Housing (Warwick District Local Plan 2011-2029)
- BE1 - Layout and Design (Warwick District Local Plan 2011-2029)
- BE3 - Amenity (Warwick District Local Plan 2011-2029)
- TR1 - Access and Choice (Warwick Local Plan - 2011-2029)
- TR3 - Parking (Warwick Local Plan - 2011-2029)
- HS4 - Improvements to Open Space, Sport and Recreation Facilities (Warwick District Local Plan 2011-2029)
- CC1 - Planning for Climate Change Adaptation (Warwick District Local Plan 2011-2029)
- FW2 - Sustainable Urban Drainage (Warwick District Local Plan 2011-2029)
- FW3 - Water Conservation (Warwick District Local Plan 2011-2029)
- NE3 - Biodiversity (Warwick District Local Plan 2011-2029)
- NE4 - Landscape (Warwick District Local Plan 2011-2029)
- NE5 - Protection of Natural Resources (Warwick District Local Plan 2011-2029)
- Open Space (Supplementary Planning Document - June 2009)
- The 45 Degree Guideline (Supplementary Planning Guidance)

- Residential Design Guide (Supplementary Planning Guidance - April 2008)
- Vehicle Parking Standards (Supplementary Planning Document)

## **SUMMARY OF REPRESENTATIONS**

**Kenilworth Town Council:** Objection - Consider it to be contrary to Policy H1(2) of the newly adopted Local Plan (Directing New Housing) - Housing development on garden land, in urban and rural areas, will not be permitted unless the development reinforces, or harmonises with, the established character of the street and/or locality and respects surrounding buildings in terms of scale, height, form and massing.

**WCC Highways:** No objection subject to visibility splays condition.

**Public Response -** 8 letters of objection received. Comments made;

- Harmful to character of the area.
- Alters the density of existing housing development in the area.
- Access drive is inadequate.
- Will increase traffic on Windy Arbour.
- Unnecessary backland development contrary to Local and National Policy.
- Will cause harm to amenity of neighbours.
- Will affect the peaceful open character of the area.
- Drainage is poor in the area - will increase risk to other properties.
- Site contains japanese knotweed.
- Site is inaccessible by emergency vehicles.

1 general comment letter received stating no objection to scheme as bungalow is acceptable and boundary treatment between properties is acceptable to mitigate the close proximity of the proposed dwelling.

## **ASSESSMENT**

### **Principle of development**

Policy H1 of the Warwick District Local Plan 2011-2029 sets out a hierarchy of locations that are acceptable for new residential development. Part a) of this policy identifies the urban areas as appropriate for new development and this includes Kenilworth. The site lies within the built up area boundary of Kenilworth which is considered to be a sustainable area for new residential development.

The supporting text within Policy H1 states that development on garden land in urban areas will not be permitted unless the development reinforces, or harmonises with, the established character of the street and/or locality and respects surrounding buildings in terms of scale, height, form and massing.

Subject to an assessment of the site specific criteria, Officers are satisfied that the development is acceptable in principle.

## **Impact on character of surrounding area**

Policy BE1 of the Warwick District Local Plan states that new development should positively contribute to the character and quality of its environment. The policy requires the provision of high quality layout and design in all developments that relates well to the character of the area.

The proposed dwelling would be located to the rear of the existing properties fronting Windy Arbour. By definition, this results in a form of backland development. In this location, there are already 3 dwellings that are located in a similar position behind the main building line in a 'backland' position. These dwellings are known as 29a, 29b and 29c Windy Arbour.

Assessing the proposal against Policy H1, Officers consider that the established character of the street and immediate locality is defined by the existing linear development fronting Windy Arbour with 3 bungalows located to the rear of Windy Arbour accessed off two separate, but adjacent, access drives. The provision of an additional single storey property in this immediate location would therefore follow one element of the existing character of the immediate area and would not result in a form of development that is not in keeping with that character.

The provision of a single storey property would also respect the existing character of the surrounding buildings in terms of the proposed scale, height, form and massing.

Overall, Officers have considered the characteristics of the immediate area and note that the proposed development would be closely associated with existing dwellings that already have a backland character. In this case, the form of development would not be out of character with its surroundings and would not result in a form of development that is out of character with the local area.

## **Impact on adjacent properties**

Policy BE3 of the Warwick District Local Plan states that new development will not be permitted that has an unacceptable adverse impact on the amenity of nearby uses and residents.

To the east, west and south of the site, the separation distances are significant where the plot is adjacent to rear garden areas. Officers are satisfied that the single storey, low profile nature of the dwelling would also not result in any harmful overlooking.

To the immediate north of the site lie two new dwellings known as 29b and 29c Windy Arbour. These properties are in close proximity to the boundary of the application site and would share a back to side relationship. In terms of separation distances, it is noted that the existing properties have fairly small rear gardens giving a separation distance of approximately 7 metres. Having regard to this, it is noted that the proposed dwelling is set at a lower land level and has a low pitched roof sloping away from the boundary of the site.

Due to the low profile nature of the proposed dwelling and taken into consideration with the proposed 'living wall' boundary treatment, Officers are satisfied that the proposed dwelling would not result in any harmful loss of light or overbearing impact.

The proposed development would result in an increase in vehicles using the access drive in close proximity to the garden boundary of No. 29 Windy Arbour as well as the side boundary of No. 29b Windy Arbour. This is likely to result in some potential disturbance to the occupiers of these dwellings. Officers are mindful that the proposal is for a single dwelling and the likely traffic increase would be modest. In this case, the provision of one additional dwelling would not result in a level of harm that would result in demonstrable harm to the occupiers of the existing properties.

Due to the close proximity to the neighbouring properties, Officers consider it appropriate to remove Permitted Development Rights to ensure that any future works to the dwelling would not have a detrimental impact on the amenity of neighbouring residents.

Officers are satisfied that the development would not have an unacceptable impact on the amenity of neighbouring properties.

### **Amenity of future occupants of the dwelling**

The proposed dwelling would have the primary windows facing to the front and rear of the property giving the occupiers outlook over the garden area to the rear and the open parking area to the front. The plot would benefit from a large amenity space to the rear, enclosed by fencing which would provide a very good sized garden area for the use of the occupiers. Officers are satisfied that the proposal would result in a satisfactory level of amenity for future occupants.

### **Access and Parking**

Policy TR1 of the Warwick District Local Plan requires all developments provide safe, suitable and attractive access routes for all users that are not detrimental to highway safety. Policy TR3 requires all development proposals to make adequate provision for parking for all users of a site in accordance with the relevant parking standards.

The site benefits from an existing access to the highway that currently serves the two existing dwellings to the rear of Windy Arbour. The access already serves the parcel of land to allow access for maintenance purposes. Officers are satisfied that the provision of an additional dwelling served by the access would be acceptable and would not be detrimental to highway safety in the local area. The access point with the public highway affords sufficient visibility in either direction to allow vehicles to safely manoeuvre out of the site into the public highway.

The proposed dwelling is to have two parking spaces together with turning space within the site to allow vehicles to enter and exit in a forward gear. The two

spaces meet the required standards for a 3 bedroom property. The driveway would also provide ad hoc parking for additional vehicles when required.

Concern has been raised regarding the ability for emergency vehicles to access the site. In assessing this element, Officers are mindful that the access drive exists and serves two existing properties. Therefore, there would not be a material change in circumstances for an emergency vehicle to attend the site. Whilst manoeuvring space is limited for large vehicles, Officers do not consider that this would be a sufficient reason to refuse the current application.

The proposal has been visited and assessed by the County Highways Officer and no objection is raised to the development subject to a condition requiring visibility splays to be maintained.

## **Other Matters**

### Ecology and Trees

The site contains open scrubland with several trees located outside but adjacent to the site of the proposed dwelling. The County Ecologist has recommended the imposition of a tree protection scheme to prevent harm to these trees. The remainder of the site is open land and the development proposes additional trees and planting which would result in an enhancement to the area on terms of ecological matters.

In terms of protected species, the Ecologist has considered the site and nearby records and recommended the imposition of explanatory notes regarding nesting birds, amphibians, hedgehogs and indigenous planting.

Concern has been raised regarding the potential presence of Japanese Knot Weed within the site. Whilst this is not a matter for the planning system, Officers consider it appropriate to attach an explanatory note advising of the site owners legal requirements regarding the presence of Japanese Knotweed within the site boundary.

### Waste Management

The proposal would result in additional bins being provided for the property that would need to be collected from the frontage of the access drive with the road. This area is already used for the bins associated with the existing properties.

The position of the dwelling would result in a distance of 85 metres from the edge of the curtilage to the edge of the highway. Whilst this is in excess of the normal reasonable distance to move bins, it is noted that the existing property at 29c has a similar distance from the edge of the property curtilage of approximately 75 metres. Officers are therefore content that the waste management proposals at the site would be acceptable and would not be a reason to withhold planning permission.

### Open Space

The additional residents brought into the area by this application will put more pressure upon existing open space, both in the locality and the wider district in relation to destination parks.

As set out in HS4 of the Warwick Local Plan 2011-2029, a contribution is required in order to mitigate the impact of this additional use. The contribution rates are set out in the subsequent 'Open Space Supplementary Planning Document' and its associated guidance, 'Developer Contributions for commuted payments for new provision/enhancement of open space'.

On the basis of the above, the Open Space team have requested a contribution of £2,526 based upon a net gain of 3 bedrooms @ £842 per room.

The contribution will be put toward the development objectives of local open spaces within approximately 500m (10 minute walk) of the development where these open spaces have development plans and projects in need of funding. The contribution will be put toward the development objectives of improvements to the Bates Memorial Field. This area scored only 'average' in a number of aspects in the latest Parks Audit (2016). The Green Space Strategy sets out the objective of having our public open spaces rated as 'good' or better by 2026. At the time of responding, there are no S106 agreements assigned to various projects within the park.

This contribution can be secured by condition.

## **Conclusion**

The proposal is for a new dwelling located within the urban area of Kenilworth where the general principle of development is considered acceptable. The nature of the development falls within the definition of backland development but Officers are satisfied that the proposed dwelling is acceptable under the requirements of Policy H1 as the proposed dwelling would respect the existing character of the surrounding buildings in terms of the proposed scale, height, form and massing.

The development is also considered acceptable in terms of the impact on the amenity of neighbouring properties, the impact on highway safety and impact on trees and ecological matters.

For the above reasons, the recommendation is to approve planning permission.

## **CONDITIONS**

- 1 The development hereby permitted shall begin not later than three years from the date of this permission. **REASON:** To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawing(s) 5201/02 Rev B, and specification contained

therein, submitted on 24 October 2017. **REASON:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.

- 3 The development shall be carried out only in strict accordance with sample details of the facing and roofing materials which shall have been submitted to and approved in writing by the local planning authority. **REASON:** To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the locality in accordance with Policy BE1 of the Warwick District Local Plan 2011-2029.

- 4 Unless the Local Planning Authority certifies that suitable alternative provision has been made for the provision or improvement of open space within the catchment area of the application site in accordance with Policy SC13 of the Warwick District Local Plan 1996-2011:

(i) no development shall commence unless or until a scheme for such provision or improvement (identifying the size/extent, location and specification of the space and works) has been submitted to and approved in writing by the Local Planning Authority; and

(ii) the dwellings hereby permitted shall not be occupied until the scheme so approved has been implemented.

**REASON:** To ensure the necessary infrastructure and facilities are provided in accordance with Policy SC13 of the Warwick District Plan 1996 - 2011.

- 5 No development or other operations (including demolition, site clearance or other preparatory works) shall be commenced until details of tree and hedge protection in accordance with British Standard BS5837- 2012 Trees in Relation to Design, Demolition & Construction) to all tree(s) on the site, or those tree(s) whose root structure may extend within the site. In particular no excavations, site works, trenches or channels shall be cut or pipes or services laid, no fires shall be lit within 10 metres of the nearest point of the canopy of any protected tree(s); no equipment, machinery or structure shall be attached to or supported by a protected tree(s); no mixing of cement or use of other contaminating materials or substances shall take place within, or close enough to, a root protection area that seepage or displacement could cause them to enter a root protection area or any other works be carried out in such a way as to cause damage or injury to the tree(s) by interference with their root structure and that no soil or waste shall be deposited on the land in such a position as to be likely to cause damage or injury to the tree(s). **REASON:** To protect those trees which are of significant amenity value to the area and which would provide an enhanced standard of appearance to the development in accordance with Policy NE1 of the Warwick District Local Plan 2011-2029.



- 6 No part of the development hereby permitted shall be commenced until details of all earthworks, mounding and the finished floor levels of all buildings, together with details of existing and proposed site levels on the application site and the relationship with adjacent land and buildings have been submitted to and approved in writing by the Local Planning Authority and thereafter, the development shall be carried out in strict accordance with these approved details or any subsequently approved amendments. **REASON:** To ensure a satisfactory relationship between the proposed development and adjacent land and buildings in the interests of amenity in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.
- 7 The development hereby permitted shall be carried out in strict accordance with details of surface and foul water drainage works that shall have been submitted to and approved in writing by the local planning authority. **REASON:** To ensure that adequate drainage facilities are available for the satisfactory and proper development of the site in accordance with Policies BE1 and FW2 of the Warwick District Local Plan 2011-2029.
- 8 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no further development shall take place within the curtilage of any dwellinghouse hereby permitted. **REASON:** That having regard to the design, layout and general nature of the proposed development it is important to ensure that no further development is carried out which would detract from the appearance of the area and affect the amenity of adjacent properties in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.
- 9 The soft landscaping works as detailed on the approved plans shall be completed in all respects within the first planting season following the first use of the dwelling save that the tree(s) and shrub(s) shall be planted within six months of that first use. Any tree(s) or shrub(s) removed, dying, or becoming in the opinion of the local planning authority seriously damaged, defective or diseased within five years from the substantial completion of the scheme shall be replaced within the next planting season by tree(s) or shrub(s) of the same size and species to those originally required to be planted. All hedging, tree(s) and shrub(s) shall be planted in accordance with British Standard BS4043 - Transplanting Root-balled Trees and BS4428 - Code of Practice for General Landscape Operations. **REASON:** To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies BE1, BE3 and NE4 of the Warwick District Local Plan 2011-2029.
- 10 The development shall not be occupied until a turning area has been provided within the site so as to enable a car to leave and re-enter the

public highway in a forward gear and thereafter the turning area shall be retained in perpetuity. **REASON:** In the interest of highway safety having regard to Policy TR1 and TR3 of the Warwick Local Plan 2011-2029.

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