

**Planning Committee:** 19 June 2018

**Item Number: 10**

**Application No:** [W 18 / 0570](#)

**Town/Parish Council:** Leamington Spa  
**Case Officer:** Holika Bungre

**Registration Date:** 21/03/18

**Expiry Date:** 16/05/18

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**1 Bell Tower Mews, Woodcote Road, Leamington Spa, CV32 6QB**  
Erection of single and two storey rear extensions FOR Mr & Mrs Neil Tyagi  
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This application is being presented to Committee due to the number of objections received.

### **RECOMMENDATION**

The Planning Committee are recommended to grant the application subject to conditions.

### **DETAILS OF THE DEVELOPMENT**

This application seeks planning permission to erect a part single storey and part two storey rear extension. This would also involve the increase of the ridge height of the lower part of the roof of the property to be in line with the main ridge, continuing the pitch of the existing roof along its current plane. Matching facing materials are proposed and UPVC doors and windows are proposed (there is currently a mix of both timber and UPVC doors and windows on the property).

The Wellingtonia tree in the rear garden is proposed to be retained. While it cannot be imposed by planning, the applicants have expressed that they wish to retain the hedging and trees along their side boundary with Ambassador Court.

While the garage is proposed to be converted and two new front windows are proposed to be formed at ground floor, these elements would not require planning permission and therefore will not be assessed as part of this planning application.

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

The application site relates to a modern detached dwelling, part of a Mews development of two houses in Bell Tower Mews, accessed via the east end of Woodcote Road, and located behind the properties in Kenilworth Road. The site lies within the Leamington Spa Conservation Area. Permitted Development Rights were removed from the site for any two storey development within 8m of the boundaries with Ambassador Court and for fences, walls or means of enclosure, as part of planning applications W/84/1081 and W/86/0437 respectively.

## **PLANNING HISTORY**

W/17/1772 - Withdrawn - Proposed single and two storey rear extensions (withdrawn due to lack of tree survey only).

W/86/0437 - Granted - Erection of two detached dwellings and garages

W/84/1081 - Granted - Erection of two detached houses and garages

## **RELEVANT POLICIES**

- National Planning Policy Framework
- The Current Local Plan
- BE1 - Layout and Design (Warwick District Local Plan 2011-2029)
- BE3 - Amenity (Warwick District Local Plan 2011-2029)
- HE1 - Protection of Statutory Heritage Assets (Warwick District Local Plan 2011-2029)
- NE1 - Green Infrastructure (Warwick District Local Plan 2011-2029)
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets (Warwick District Local Plan 2011-2029)
- Guidance Documents
- Residential Design Guide (Supplementary Planning Guidance - April 2008)

## **SUMMARY OF REPRESENTATIONS**

**Leamington Spa Town Council:** No objection

**Tree Officer:** The removal of two small trees to the rear of the property is considered to be reasonable and I raise no objections to that. The control measures proposed to protect the Wellingtonia also seem to be considered and reasonable, but they must be fully implemented in a timely fashion and properly maintained and monitored throughout the duration of the development to ensure no breaches occur.

I believe that the two birch trees on the eastern side of the approach to the property will require protection from avoidable damage during the development and I would like to see the tree protection plan revised to reflect this.

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

**Public Response:** 24 objections (including a signed petition) from residents of Ambassador Court.

- Foundation of extensions will adversely affect the TPO Wellingtonia and its future growth, possibly making it unstable, causing a danger of falling and harming the Ambassador Court building and residents. Works could also cause removal of the tree.
- The Wellingtonia would require constant pruning to enable light to enter the extensions due to its close proximity to them, and the potential for the applicant's to request the removal of the tree for this purpose in the future, and reassurances are sought that such approval would not be given.
- Tree survey states that hedgerow H1 will be pruned to an adequate height to provide clearance for works, but this is not specific and there is no guarantee that the trees will be allowed to grow back, resulting in less tree screening

than current, not ensuring the house and the development would be screened.

- Previous cropping of 2m took place without permission to the hedges and trees, and request for TPOs to be added to them.
- Disagreement with tree survey that removal of other trees is acceptable.
- Concerns over trees being removed as part of the construction and access for it.
- Loss of light.
- Loss of privacy of habitable rooms, due to overlooking (including from side bathroom window being opened) and due to the close proximity of extensions to Ambassador Court. Request that this bathroom window be removed from the scheme to be replaced by an extractor fan.
- Loss of views to cricket pitch.
- Noise disturbance from proposed gym (speculation over potentially noisy equipment and music).
- Disagreement that works will not be viewed from public highway or neighbouring properties due to screening.
- The extension is a bold addition to a 'fake' Tudor style building, unlike the Regency feel of the North Leamington.
- The extension is a 'fake' Tudor style addition at the side/rear, where this style does not currently exist and will be out of place (as it only exists at the front of the house). Context at rear of Ambassador Court is the art deco Ambassador Court, 1900s cottages, and Bell Tower Mews with its simple red brick.
- Loss of garage will adversely affect parking.
- Owners of property should reconfigure space of current property rather than increase scale, which will result in a large house on a small plot with a disproportionately small garden, and less smaller family homes (there are many 4+ bedroom properties available).
- Floor space is disproportionately increased.
- Light pollution from excessive number of bi-fold doors proposed, which will also disturb local wildlife.
- Requests protection surrounding nesting season for birds.
- Traffic, deliveries and nuisance of building works; disruption to environment, residents and the nursing home.
- Proposals do not benefit the local area.

## **ASSESSMENT**

### Design and Impact on the Street Scene and the 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.

Policy HE1 of the Warwick District Local Plan states that development will not be permitted if it would lead to substantial harm to or total loss of the significance of a designated heritage asset, unless it is demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss, or if criteria listed within the policy have been satisfied. Where development would lead to less than substantial harm to the significance of a designated heritage asset, this harm will be weighed against the public benefits of the proposal, including securing its optimum viable use.

The design of the proposed extensions and additions are considered to be in keeping with the property and the immediate context. The proposed two storey extension is of a mock Tudor style, to match the main house, with matching materials. Given that the house is modern, this complimentary addition is considered suitable for the property (which already has a Mock Tudor design), the Conservation Area and the immediate setting, despite the characteristics and designs of other properties that can be found in wider Leamington, or outside of Bell Tower Mews. In reaching this conclusion, regard has been had to the fact that the site is a back street mews, which is not readily visible to the public. Apart from the ridge increase, the works will not be viewed from the front of Bell Tower Mews, nor the wider public realm.

The proposed increase in ridge height relates to a small part of the roof and will continue the design of the main roof. The main ridge height will not be exceeded and the change will bear minimal visual impact upon the main property, the street scene or the Conservation Area. Concerning the increase in floor space, while neighbours have considered it large and disproportionate, as the site is not in the Green Belt, no floor space increase restrictions apply. Also there are no approved WDC garden size standards by which minimum garden sizes can be imposed. Lastly, concerning footprint and depth, the single storey element proposed could be built in isolation by Permitted Development Rights, which in itself forms a large part of the increase into the garden, and a single storey extension to same depth as the proposed two storey element (4m) could be built by Permitted Development also.

While there are a high number of bi-fold doors proposed, given that the property is modern and quite wide currently, and such doors could be added to the extension in future by Permitted Development, it is not considered reasonable to require amendments to this, and a refusal on this basis would not be sustained at appeal. While the Conservation Officer has suggested that new windows should be in painted timber, and the bi-fold doors could be metal, UPVC is present on the building and could also be installed by Permitted Development, and therefore this would be inappropriate to impose here.

#### Impact on Neighbour Amenity

The single storey element of the proposal adjacent to the neighbour in Bell Tower Mews would cause a breach of the 45 degree angle at 3m of the depth of the proposed 3.6m extension. However, given that this single storey element could be built by Permitted Development Rights up to 0.4m deeper than that which is proposed, it is considered that the harm of being overbearing or causing a loss of light to this neighbour would be less than the Permitted Development

option. Also, it is the same depth as the existing conservatory, so will have little material increase in impact upon that which is already there (even despite its bulkier design).

Concerning overlooking, the only new first floor side facing window proposed is the en suite bathroom window. This can be conditioned to be obscure glazed and non-opening above 1.7m of the floor height to ensure that no overlooking can occur from the necessary and general use of that window. This is considered sufficient and reasonable and the removal of this window is not considered necessary. This provides a suitable level of privacy to Ambassador Court properties and to its garden, regardless of available screening. All other proposed windows are either at ground floor level, or will face directly rear-wards into the applicant's own garden, and will not cause unusual or unreasonable overlooking.

On this point, the separation distance required between the side of the proposed development (with either a blank gable or first floor side obscured windows) is 12m, and this required distance is exceeded, being just over 13.5m to the rear wall which has habitable room windows within its elevation at Ambassador Court. Therefore, it is considered that the proposed development will not be overdominating or cause a direct loss of light to the residents of Ambassador Court.

Objectors have raised concerns that the proposals will result in a loss of views to the cricket pitch (which is to the east of No.2 Bell tower Mews). This loss is not considered to be so significant that would warrant the refusal of the application, and would not be likely to be sustained on appeal. There have also been objections raised to the potential forms of noise disturbance that could come from proposed gym, however, as the overall use of the property will not change from residential, there is not likely to be a material change in the impact of noise, and neither would it be a change that can be controlled by the planning process.

#### Conservation Area Trees and Protected Trees

Neighbours have commented that the foundation of extensions will adversely affect the TPO Wellingtonia and its future growth and are concerned about the dangers of it falling, however the Tree Officer is fully satisfied that the tree and its roots will be kept intact and well protected if the recommendations of the report are fully carried out. Therefore if the application is approved, this will be conditioned to ensure this. This involves tree protection measures throughout construction as well as micro-piling the foundations.

It has been raised by neighbours that the Wellingtonia would require constant pruning to enable light to enter the extensions due to its close proximity to them, and the resulting potential for the applicant to request the removal of the tree for this purpose in the future. They have sought reassurances that such approval would not be given. The tree report states that the glazing of the extension would help natural light to enter them, and that the layout of the proposed extension is such that future pressure for the tree's removal is unlikely to result. The Tree Officer has raised no issue with this and therefore this is not considered to be a significant concern. Furthermore, the concern about the

future request for removal of the tree is speculative, would require an application, and would be assessed upon its own merits and the value and contribution of the tree at the time.

Trees 2 and 3 are category C3 apple trees and are not considered worthy of retention, hence their removal is not objected to by the Tree Officer. Neighbours have commented that while the tree survey states that hedgerow H1 will be pruned to an adequate height to provide clearance for works, it is not specific and there is no guarantee that the trees will be allowed to grow back, resulting in less tree screening than the current situation. The tree Officer has raised no concern with this, subject to works being carried out in accordance with the recommendations within the report, which will be conditioned. Also, there is no requirement in planning terms for screening to remain, either for the privacy of any parties, or for neighbours to be unable to see the development, so this cannot be imposed.

It has been mentioned by neighbours that some previous cropping of 2m took place without permission to the hedges and trees. They have also stated that no other trees or hedges should be damaged or removed, and they have requested that TPOs are added to them. Apart from two trees to the front of Bell Tower Mews, which are at a significant distance from the site (which cannot be dealt with by way of this planning application due to this), and the Wellingtonia, the Tree Officer has not considered any of the other trees worthy of retention or protection, and therefore in planning terms, the addition of TPOs or the imposition of any controls over works to those trees is not justified.

For clarity, the 2 no. birch trees in Bell Tower Mews mentioned for protection within the Tree Officer's comments (found on the approach to the house in the front street scene) are considered to be at a significant distance way from the application site, therefore protection measures cannot be reasonably imposed for them through this application.

### Parking

The garage can be converted by Permitted Development. Moreover, the minimum number of parking spaces required for a house of this proposed size is 2, which will be unaffected by the proposals, and will remain intact at the front.

### Ecology

Bat and bird notes have been requested by County Ecology and will be applied. A neighbour has raised concerns about the resulting light pollution from the excessive number of bi-fold doors proposed, which could disturb local wildlife. County Ecology have not raised any concerns about this, and also this number or a higher number of doors, of a similar or larger size could be added to the property by Permitted Development Rights. Furthermore, as the site is not in a rural location, but is within a built up urban area, there are no concerns surrounding light pollution in this sense.

## Other Matters

Concerning the point raised about housing mix and maintaining smaller houses rather than extending and increasing the number of larger houses, there are no planning policies which restrict the rights to extend a residential property upon this basis, subject to all of the other usual considerations, as carried out here.

A number of other non-planning matters were raised by neighbours which cannot be controlled by the planning process and are not material to the consideration of the planning application.

## **Summary/Conclusion**

The application proposals are considered to be complimentary in design to the main house, the immediate setting and the Conservation Area, and will not cause a material increase in harm to the amenity of neighbouring properties or gardens, subject to condition. The proposals and their method of construction and other tree protection measures will ensure no harm to the Protected Wellingtonia tree, and will not be unduly harmful to other Conservation Areas Trees (subject to working in accordance with the Tree Report to be conditioned) and therefore the application is recommended for approval.

## **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 drawings 062017-PL-01 Rev A and 062017-PL-02 Rev A, and specification contained therein, submitted on 21st March 2018. **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 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 BE1 of the Warwick District Local Plan 2011-2029.
- 4 The works hereby permitted shall be carried out only in strict accordance with the details shown on the approved plans and in accordance with the findings and recommendations of the Arboricultural Survey Submitted on 21st March 2018, entitled 'Pre-Development Arboricultural Survey and Impact Assessment, Report No RT-MME-126998 Rev A ', updated in January 2018 by MiddleMarch Environmental. **REASON:** To ensure that any works are carried out only in strict accordance with the terms of this permission in the interests of visual amenities of the locality in accordance with Policies BE1 and NE1

of the Warwick District Local Plan 2011-2029.

- 5 Prior to the occupation of the development hereby permitted, the first floor en suite side window in the west side elevation of the approved 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 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 protect the privacy of users and occupiers of nearby properties and to satisfy the requirements of Policy BE3 of the Warwick District Local Plan 2011-2029.

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