

**Planning Committee:** 05 November 2024

**Item Number:** 11

**Application No:** [W 24 / 1095](#)

**Town/Parish Council:** Warwick  
**Case Officer:** Lucy Hammond  
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**Registration Date:** 12/08/24  
**Expiry Date:** 07/10/24

**Warwick Castle, Castle Hill, Warwick, CV34 4QX**

Variation of Conditions 1 and 2 of planning permission W/22/1961 (Installation of structures to create a temporary jousting arena on River Island, to accommodate live shows between 27th May and 3rd September (inclusive) for a period of two years at Warwick Castle. Construction to be undertaken in May and dismantling to be complete by 30th September each year) to allow a further period of five years for the operation of the jousting arena together with some minor layout changes. FOR Merlin Attractions Operations Ltd

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

**RECOMMENDATION**

That the proposed variation of conditions 1 (temporary period) and 2 (approved plans) to allow a further five year period and some minor design alterations is approved, subject to conditions.

**DETAILS OF THE DEVELOPMENT**

This application proposes the variation of conditions 1 and 2 of planning permission W/22/1961 which gave approval for the temporary installation of a jousting arena for a two year period. This was to accommodate live shows between 27<sup>th</sup> May and 3<sup>rd</sup> September (inclusive) with twice daily performances each lasting for 30 minutes. Varying the conditions would seek to increase the temporary period over which the jousting arena can continue to operate to five years as well as reflect some updated plans illustrating a minor change which has been made to the layout of the arena to now include a disabled seating platform in place of the 'Knight's Box'.

No other changes are proposed to any other conditions which would remain as per the most recent decision (W/22/1961) which sets out the condition requirements of the planning permission.

**THE SITE AND ITS LOCATION**

The application site forms part of Warwick Castle's extensive grounds. Specifically, this application proposes development on an island in the River Avon to the south of the Grade I listed Castle, a Scheduled Ancient Monument, in the boundary of a Grade I Registered mid eighteenth-century Park and

Garden, located adjacent to a reconstructed boathouse originally dating from 1898, in the Warwick Conservation Area.

The immediate setting also includes the Grade II\* Listed Castle Mill and Grade II\* Listed Building and Scheduled Ancient Monument site Old Castle Bridge. The island subject to the application is linked to the castle site via a late twentieth century timber bridge, crossing the river south-south-west of the Castle.

The site is also located in Flood Zones 2 and 3.

## **PLANNING HISTORY**

There is extensive history across the wider Castle site, however, the only records of direct relevance here are three previous permissions approved for the same temporary jousting arena. These were approved under references W/19/0093, W/19/2148 and W/22/1961, the latter one of which this latest submission seeks to vary.

## **RELEVANT POLICIES**

- National Planning Policy Framework
- Warwick District Local Plan 2011-2029
- PC0 - Prosperous Communities
- CT6 - Warwick Castle and St Mary's Lands, Warwick
- BE1 - Layout and Design
- BE3 - Amenity
- TR1 - Access and Choice
- HE1 - Protection of Statutory Heritage Assets
- HE2 - Protection of Conservation Areas
- FW1 - Development in Areas at Risk of Flooding
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets

## **SUMMARY OF REPRESENTATIONS**

**Warwick Town Council:** Support for the following reasons:-

- This brings additional visitors to the Castle over the summer months
- This has a positive knock-on effect to the town's economy
- The changes proposed are minor and support improved accessibility

**Health & Community Protection - Environmental Sustainability:** No objection subject to condition being carried forward from the previous planning permission

**WDC Conservation:** No objection

**WCC Archaeology:** No comments to make

**WCC Ecology:** No objection

**WCC Highways:** No objection

**Environment Agency:** No objection subject to condition requiring the development to be carried out in accordance with the FRA (Flood Risk Assessment)

**Local Lead Flood Authority:** No objection

**Gardens Trust:** Objection based on harm to significance of heritage assets

**Public Response:** 9 objections received raising the following material planning considerations:

- Continued noise and disturbance during the summer months
- Loss of amenity to neighbouring gardens
- Impact on character of the area

## **ASSESSMENT**

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

- The impact on heritage assets / public benefits;
- The impact on residential amenity;
- Visual impacts (arising from the proposed minor change);
- Access and highway safety;
- Drainage/Flood risk; and
- Other matters

### **Principle of development**

This is an application to vary conditions attached to the previous permission for the temporary installation of a jousting arena with associated structures for the period covering the end of May to the beginning of September (specifically 27<sup>th</sup> May to 3<sup>rd</sup> September inclusive) for a period of two years. Condition 1, which stipulates the temporary nature of the approved permission (for two years), is to be varied to reflect the increased time period of five years currently sought by the applicant. Condition 2 stipulates the approved plans and is to be varied to include reference to updated plans showing a minor design change to the arena.

In deciding such an application the Local Planning Authority must only consider the specific amendments being sought, i.e. the increased time period and any design changes. The principle of development cannot be re-considered as this remains acceptable as per the original approved permission.

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

Condition 1, as originally worded, stated:

*Within two years of the date of this permission, the use hereby permitted shall be discontinued, all associated ancillary works and structures removed from the*

*application site and the land upon which the use occurred shall be restored to its former condition in accordance with measures which will have first been submitted to and approved in writing by the Local Planning Authority within 3 months of the date of this permission. **Reason:** In order that the Local Planning Authority has the opportunity of reviewing the impact of this development on the relevant heritage assets and their settings, paying particular regard to the development's impact on the economic viability of the Castle, in accordance with Policy HE1 of the Warwick District Local Plan 2011-2029 and paragraphs 199-202 of the NPPF.*

The suggested wording for the condition, as varied, is exactly as above, but with the opening reference to two years updated to five years, thus reflecting the increased temporary period of five years for the jousting arena to operate.

Condition 2, which lists the approved plans, is to be updated to reflect the revised drawings as well as to include one new drawing that did not form part of the previously approved permission, and remove one drawing that is no longer required.

### **Impact on heritage assets**

It is important to make clear that a significant part of the assessment of the principle of development is intrinsically linked to the proposal's impacts on the relevant heritage assets, including an assessment of any public benefits which could be considered to outweigh any level of harm identified. That being said, since this is a S.73 application, the principle of development, having already been established under the original permission, is not for further consideration or re-assessment at this time.

Given that the proposals remain almost identical to those previously approved and further, that the temporary nature of the jousting arena is maintained over the proposed five year period, it is considered that there is no change to the impacts on the relevant heritage assets already considered under the original permission. Both the temporary nature of the jousting arena and the reversible nature of the works have been taken into consideration when assessing this application.

Officers remain of the view that less than substantial harm is caused to the significance of Castle Park and listed buildings within the castle complex, however, it also remains the case that there are clear public benefits, as identified in the submitted supporting statements, which are associated with the proposal that are considered to outweigh this harm. Moreover, the physical changes to the jousting arena are considered minor in nature and do not increase the level of harm associated with the proposal.

Having regard to the above and the important part the jousting arena plays in the overall economic considerations of the Castle and its offer, Officers are satisfied that the proposals remain in accordance with Policy HE1.

In making this assessment, Officers have had regard to Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the weight

that should be given to the desirability of preserving the special interest and setting of the heritage assets.

### **Impact on residential amenity**

The jousting arena is proposed to continue operating in the same manner as before; this is a day-time attraction which would operate twice daily (two 30-minute shows per day, typically at 12:00 and 15:00) during the Warwick Castle opening hours. The proposals in this S.73 application remain the same as those previously assessed and deemed acceptable, with the exception of the addition of a disabled seating platform in place of the Knight's Box, which has no specific bearing on the noise generating aspects of the development.

The noise assessment previously submitted and considered under the 2019 application identified mitigation measures to minimise the amplified speech levels that emanate in the direction of the closest dwellings. This comprised loudspeakers being oriented so that they face away from Mill Street and 'compression' being added to the amplification system meaning that general amplified speech levels would be maintained but peaks in noise levels (loud shouts and shrieks) would not be amplified to the same degree i.e. 'compressing' the sound signal.

With these mitigation measures in place, Officers previously determined that noise levels would not cause significantly adverse impacts on neighbouring residents and the aforementioned measures were secured by condition such that the development had to be operated in accordance with the details contained within the Noise Impact Assessment Report. The applicants have provided supporting information with this latest application suggesting that if these measures continued to be secured by condition on any forthcoming permission, then with the noise management plan remaining in place, noise levels would remain at an acceptable level for nearby residents without affecting the experience of the events for the visitors.

In view of the objections received to this application, predominantly on noise grounds, the applicant has provided additional supporting information in the form of a Noise Monitoring and Management Note which provides a brief summary on the history of the jousting arena and the work that has been done with regard to noise impacts since its beginnings, together with how noise mitigation measures have been adapted and improved over time to respond to some earlier noise complaints (received in 2019).

This note also makes reference to the Castle's continual review of noise monitoring, not just in relation to the jousting arena but other uses across the site also. To that end, there are Noise Management Plans in place which include a complaints procedure and a noise management hotline, available 24/7, where every call to the Castle is logged. It is stated in the Note that since the implementation of the measures set out in the Noise Assessment in Summer 2023, no complaints to the Castle have been recorded in relation to the jousting arena. The Environmental Health team has been able to confirm that this is the case; no complaints have been received in relation to the jousting arena since the last permission was issued in February 2023.

Having re-considered the proposals, the Environmental Health Officer has continued to raise no objection to the development, subject to the retention of the aforementioned condition on the extant permission, requiring the development to be carried out strictly in accordance with the mitigation proposals set out. In view of this, and having regard to all of the above considerations, Officers are satisfied that the proposal remains acceptable in this regard, would not lead to any increased noise levels over and above those which have been previously assessed and established through the approval of the original permission, and therefore continues to be in accordance with Policy BE3 of the Local Plan.

### **Visual impacts**

The jousting arena is, by its nature, a temporary structure with timber posts and rails defining a rectangular space with a central timber rail creating the two gallops for the jousting. The arena has a sand base and bleachers are located on either side.

During the determination of the extant permission, the height of the Knight's Box was reduced from 4.2m to 2.3m to reduce the visual impact as well as the impacts on the heritage assets. This is now removed entirely from the application and has been replaced with a disabled access viewing ramp which is lower again, standing at just 0.5m in height.

No other changes are proposed to the jousting arena which will otherwise remain as per the approved permission. Officers are therefore satisfied there would be no additional visual impacts arising over and above those previously considered under the last application and moreover, the removal of the Knight's Box from this latest submission further reduces any harm caused through taller structures on the site. Together with the continued support from the conservation officer and the conclusion there would be no greater impacts to heritage assets resulting from the development Officers are satisfied that the visual impacts remain acceptable and therefore in accordance with Policy BE1 of the Local Plan.

### **Access and highway safety**

Since the nature of the development is not materially different to that approved previously, the Highway Authority has re-considered the development and confirmed that it continues to raise no objection and there are no recommended conditions deemed necessary. Officers are therefore satisfied that the development continues to accord with Policies TR1 and TR3 of the Local Plan.

### **Drainage and flood risk**

As part of the earlier planning permission, the Lead Local Flood Authority requested some further information and clarification, on the basis of which they subsequently confirmed there was no objection subject to a condition requiring the development to be carried out in accordance with the submitted Flood Risk Assessment and Overland Flow Routing Plan, as well as the identified mitigation measures.

As part of this latest submission, the LLFA has maintained their stance of no objection and in addition, the Environment Agency, who did not previously

provide comments, has this time confirmed there is no objection, subject to a condition requiring the development to be carried out in accordance with the submitted Flood Risk Assessment. It is noted that the EA has specified two further mitigation measures that should be explicitly noted in the condition. Officers do not consider this to be unreasonable despite the fact they were not stipulated within the condition previously, because they relate to measures set out in the FRA which was last updated in 2022, for the last application, and which has not been updated since. There is therefore nothing new being added to the permission at this stage; rather this would provide further clarity to the condition in specifying the most critical measures in respect of flooding. Overall, Officers are therefore satisfied that the development remains in accordance with Policy FW1 of the Local Plan.

### **Other matters**

Ecology matters continue to be acceptable as per the original approval with no concerns being raised, or comments made, by the County Ecologist and no need for further conditions in this regard.

There are no other material changes in policy since the original decision that would lead me to reach a different conclusion on any of the key issues in the report attached to W/22/1961.

Issuing any permission under Section 73 of the Act is tantamount to issuing a new permission for the entire development. As a consequence, any decision notice must replicate all previous conditions which are still relevant. There are no outstanding pre-commencement conditions still awaiting formal discharge and it is appropriate to carry forward all other conditions from the previous decision where appropriate.

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

### **SUMMARY / CONCLUSION**

The original planning permission was granted under application reference W/22/1961. The policies and material considerations that are relevant to that decision are set out in its associated officer report.

The variation of conditions 1 and 2 to allow a further five year temporary period for the jousting arena to operate as well as a minor design change reflected in the latest plans would not result in any detriment to residential amenity, access and highway safety, drainage or ecology. While it is still the case that less than substantial harm has been identified to the relevant heritage assets, it also remains the case that there are clear public benefits identified which Officers are satisfied outweigh the level of harm.

There are no material changes in planning policy that would lead Officers to reach a different conclusion to that which was reached previously through the assessment and determination of the previous application. It is therefore considered that the development remains in accordance with the relevant provisions of the Development Plan and consequently this application is recommended for approval.

## **CONDITIONS**

- 1 Within five years of the date of this permission, the use hereby permitted shall be discontinued, all associated ancillary works and structures removed from the application site and the land upon which the use occurred shall be restored to its former condition in accordance with measures which will have first been submitted to and approved in writing by the Local Planning Authority within 3 months of the date of this permission.

**Reason:** In order that the Local Planning Authority has the opportunity of reviewing the impact of this development on the relevant heritage assets and their settings, paying particular regard to the development's impact on the economic viability of the Castle, in accordance with Policy HE1 of the Warwick District Local Plan 2011-2029 and paragraphs 205-208 of the NPPF.

- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawings 353/28/3, 353/28/4, 353/28/5, 353/28/6, 353/28/7, 353/28/8, 353/28/9, 353/28/11, 353/28/12, 353/28/10 and 353/21/33A, and specification contained therein, submitted on 12 August 2024.

**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 hereby permitted shall be carried out strictly in accordance with the mitigation proposals as set out in 'Warwick Castle Jousting Arena Noise Impact Assessment: Report P1240/RP01' Rev. P03 produced by Formant Ltd and dated 8th December 2022.

**Reason:** In the interests of residential amenity in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.

- 4 The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment (P22-966\_V2) and Overland Flow Routing Plan (353/28/3) and in particular the following mitigation measures:

- The proposed design of the jousting arena will minimise the restriction of flow by incorporating gaps between the timber to allow water to flow through the structures
- The sand base will be contained within a 200mm border to prevent displacement into nearby watercourses and/or the main river
- All infrastructure to be securely anchored on site between April and October with structures removed from the site outside of this time period and stored outside of flood zones 2 and 3

- The Warwick Castle Jousting Flood Evacuation (Response) Plan shall be adopted and implemented upon receipt of a flood alert or warning from the Environment Agency

**Reason:** To prevent the increased risk of flooding; to improve and protect water quality; and to improve habitat and amenity in accordance with Policy FW1 of the Warwick District Local Plan 2011-2029.

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