

**Planning Committee:** 08 November 2023

**Item Number:** 7

**Application No:** [W 23 / 0988](#)

**Town/Parish Council:** Leamington Spa  
**Case Officer:** Millie Flynn

**Registration Date:** 27/07/23  
**Expiry Date:** 21/09/23

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**The Old Nursery, 6, Mill Road, Leamington Spa, CV31 1BE**  
Erection of replacement 3no.bedroom timber frame dwelling. FOR D & J.  
Whitehead

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

### **RECOMMENDATION**

Planning Committee is recommended to grant planning permission, subject to the conditions listed at the end of this report.

### **DETAILS OF THE DEVELOPMENT**

The application seeks permission for the erection of a replacement dwelling at The Old Nursery, 6 Mill Road.

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

The application site is positioned on the north side of Mill Road and is located within the Royal Leamington Spa Conservation Area and Flood Zone 3. Mill Road originally acted as a service road to serve the large dwellings and their garages fronting Leam Terrace. The street scene is now characterised by large, spacious plots, with some three storey apartment blocks and large dwellings which are positioned close to the application site, with single storey garages opposite to the application site. Mill Gardens and the River Leam are located to the north-east of the site.

### **PLANNING HISTORY**

No relevant planning history.

### **RELEVANT POLICIES**

- National Planning Policy Framework

#### Warwick District Local Plan 2011-2029

- BE1 - Layout and Design
- BE3 - Amenity
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets

- TR1 - Access and Choice
- TR3 - Parking
- HE1 - Protection of Statutory Heritage Assets
- HE2 - Protection of Conservation Areas
- FW2 - Sustainable Urban Drainage
- FW1 - Development in Areas at Risk of Flooding
- H1 - Directing New Housing
- FW3 - Water Conservation
- CC1 - Planning for Climate Change Adaptation

### The Royal Leamington Spa Neighbourhood Development Plan

- Policy RLS1 – Housing Development Within the Royal Leamington Spa Urban Area
- Policy RLS2 – Housing Design
- Policy RLS3 – Conservation Areas

### Guidance Documents

- Residential Design Guide (Supplementary Planning Document- May 2018)
- Parking Standards (Supplementary Planning Document- June 2018)
- Air Quality & Planning Supplementary Planning Document (January 2019)

## **SUMMARY OF REPRESENTATIONS**

**Royal Leamington Spa Town Council:** No objection.

**WDC Conservation Officer:** No objection, subject to condition.

**WCC Highways:** No objection, subject to advisory notes.

**WCC Ecology:** Object to the proposal until further information is provided (awaiting re-consultation response).

**WCC LLFA:** Object to the proposal until further information is provided (awaiting re-consultation response).

**WCC Landscape:** Objects to the proposal.

**WDC Waste Management:** No objection.

**WDC Environmental Health:** No objection, subject to conditions.

**WDC Tree Officer:** No objection, subject to condition.

### **Public Responses:**

13 support comments received on the following grounds;

- Eco-friendly design, which acknowledges Flood Risk.
- The proposal makes use of the existing large garden.
- Existing property has no architectural merit and is out of keeping with the streetscene.
- High quality design and materials.
- The proposal is considered a positive addition to Mill Road.
- Unique

6 objections received on the following grounds:

- Reduction in the existing large garden.
  - Second floor is reminiscent of a watchtower.
  - The proposal does not harmonise with the existing landscape.
  - Loss of privacy.
  - The proposal causes overlooking.
  - The proposal is out of keeping with the character of the area.
- Impacts on streetscene.

## **ASSESSMENT**

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

- Principle of development
- The impact on the character and appearance of the Conservation Area.
- The impact on the living conditions of nearby dwellings and living conditions for the future occupiers
- Parking and highway safety
- Ecological Impacts
- Landscape/Trees
- Drainage/Flood Risk
- Waste
- Contaminated Land
- Sustainability
- Other Matters

### The principle of development

Local Plan Policy H1 directs new housing to the urban areas, the site is located within the urban area of Royal Leamington Spa. The proposal seeks to erect 1no. replacement dwelling on Mill Road. Given that the application site is located within an urban area and is for a replacement dwelling, the principle of development is acceptable.

The proposal is therefore considered to comply with Local Plan policy H1.

### Design and Impact on Heritage Assets

Section 72 of the Planning (Listed Buildings and Conservation Areas) 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 199 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 202 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Policy HE1 of the Local Plan states that development will not be permitted if it would lead to substantial harm to the significance of a designated heritage asset. Where the 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. The explanatory text for HE1 clarifies that in considering applications relating to Conservation Areas, the Council will require that proposals do not have a detrimental effect upon the integrity and character of the building or its setting, or the Conservation Area.

Policy HE2 states that consent for total demolition of unlisted buildings will only be granted where the detailed design of the replacement can demonstrate that it will preserve or enhance the character or appearance of the conservation area. This policy seeks to retain the integrity and form of unlisted buildings in conservation areas and recommends resisting alterations which would have an adverse effect upon the overall character of the conservation area.

Policy BE1 states that new development will be permitted where it positively contributes to the character and quality of its environment through good layout and design. Development proposals should demonstrate that they harmonise with, or enhance, the existing settlement in terms of physical form so that the established character of the streetscene is respected. BE1 states that in order to do this the development should adopt appropriate materials and details and respect the surrounding buildings in terms of scale, height, form and massing.

Policy RLS3 of the Royal Leamington Spa Neighbourhood Plan requires proposals that are within or directly affect the Conservation Area to demonstrate that they harmonise with the existing character of the area in terms of design, scale and external facing materials. The policy supports the retention, restoration and reinstatement of period details.

Objections have been received with concerns regarding the reduction/loss of the existing large garden and further concerns that the proposal is out of keeping with the existing character of the area.

The character of Mill Road, and in particular the side of the road where the proposed dwelling would be positioned, is one of spacious plots, with large amenity areas. To the east and west of the site is Cecil Court and Milford Court, both are large, three storey apartment blocks which again benefit from ample amenity areas to the rear and front of the sites. On the other side of the road, the character does differ, with large terraced properties which front onto Leam Terrace and their garages which are accessed from Mill Road.

The existing dwelling is not considered to make a contribution to the Conservation Area and the location itself is somewhat more adaptable to a modern structure, due to the mixture of age and design of buildings within the vicinity. That being said, it does lie within the Leamington Urban Conservation Area and has Jephson Gardens, which is a Grade II registered Park and Garden under the grouping of the Spa Gardens, to the rear as well as being in the wider setting of the rear of the listed buildings to Leam Terrace. As such, care and sensitivity is also required in consideration to form, massing and impact.

It should be noted that since the submission of the original application, the second floor and chimney have been removed, bringing the height down to the ridge line of the existing building. The garage to the east of the application has also been omitted.

Initially Officers considered the overall massing and scale of the proposed dwelling to compete with the neighbouring structures, which are a form, height and shape that is expected of a 1960s block of flats but not a detached dwelling. The proposal has subsequently been amended to reduce the overall height and scale of the building to that of the existing ridge level of the bungalow. Officers consider that such a height has less visual impact in terms of mass within the skyline of the Conservation Area and is considered more acceptable.

Officers considered that the initial tiered effect of three storeys resulted in an awkward, stacked effect, which was considered to negatively impact upon the Conservation Area. The proposal has been reduced to a two-storey development, with the existing chimney and terrace omitted from the scheme. Officers considered such features to be overbearing and stark against the existing streetscene and leafy landscape which surrounds the site. The amended scheme is now considered acceptable.

The proposed structure will be set well back from the road and the street scene is considered to be maintained as the proposed boundary wall will align with the existing height. It is noted, however, that the replacement dwelling is seeking to utilise space currently occupied by the large existing garden at the site. This site was previously a commercial garden and the legacy of this will be retained to the side garden and via the preservation of the vine house, with ample amenity space for a single dwelling maintained. Officers support the use of the reclaimed Leamington redbrick for the proposed boundary walls, such features are considered to be in keeping with the existing streetscene along Mill Road and an improvement on the existing. Initially a high brick wall was proposed to the street facing boundary wall, however this was not considered appropriate, as it closes off the front area to the site and would create a jarring presence between two open spaces either side. The plans have been amended to leave this features at its existing height and use landscaping to offer additional height and privacy for the future occupiers. The garage has also been omitted to allow for a greater sense of openness either side of the proposed dwelling.

In terms of impact on the setting of the registered Park and Garden, it is noted that the proposed replacement dwelling is well screened by established tall trees, that are also protected, due to their location within the boundary of the park. Officers also note that the proposal aligns with the existing skyline of the flat

modern roofs within the Mill Road and the proposal will be set at the ridge height of the existing bungalow, therefore its impact on the registered Park and Garden is considered to be acceptable.

The proposal also sits within the wider rear setting of the Listed heritage assets of Leam Terrace, of which Officers consider the impact of the new proposal not to result in any further harm to this setting, as it sits within an area of modern development to the opposite side of the road, set away from the streetscene. It is also noted that the existing bungalow is considered out of character and more visibly intrusive in terms of material and form.

Due to the mixed architectural character of this location, the site allows for some innovation in form and features and this proposal is considered to achieve a building which has high environmental credentials whilst sitting comfortably within the Conservation Area as a piece of contemporary design. It is acknowledged that this design is site specific however and that were there an established architectural grammar within this location, a more traditional form may be appropriate. The application has been considered both on the merits of the potential building and the diverse nature of the setting to ensure a positive outcome is achieved for both the site and the wider Conservation Area.

Officers consider that the proposal will preserve the character and appearance of the Conservation Area. The development would therefore be in accordance with the aforementioned policies.

#### The impact on the living conditions of nearby dwellings and living conditions for the future occupiers of the site

##### *Impact on Neighbouring Amenity*

Local Plan Policy BE3 states that development will not be permitted that has an unacceptable adverse impact on the amenity of nearby uses and residents. This is supported by the Council's Residential Design Guide SPD which provides further information in this respect, though, for example, the provision of minimum separation distance standards and guidance on the 45° guideline for example, to protect against overlooking and potentially overbearing impacts.

Objections have been received with concerns regarding loss of privacy and overlooking created by the proposal.

As previously noted, the proposal has been amended since the original submission to omit the terrace at first floor level. Officers also note that the neighbouring gardens serve the flats adjacent to the application site, it is considered that as such gardens serve flats opposed to single dwellings this a functional space, opposed to private amenity space. Therefore, Officers consider there to be no further concerns regarding the overlooking of the shared gardens are Milford Court and Cecil Court.

Officers note that there is a breach of 45 degree line when taken from the nearest habitable window at Milford Court. However, given that the proposal would be

positioned beyond 8.0m away, as specified in the Council's Residential Design Guide SPD, at such a distance, breaches will not usually be considered to result in material harm. This is the same for the neighbouring property at Cecil Court. Therefore, in this instance the breach of the 45-degree line is considered not to cause harm to the amenity of neighbouring properties in terms of loss of light.

The separation distances between the proposed dwelling and the existing properties are considered to be acceptable. The Council's Residential Design Guide SPD stipulates that the minimum separation distance required where properties share a front-to-front relationship across a highway is 15.0m, the distance from No. 8 -12 Millfield is ~ 36.20m and the distance from No. 27 Leam Terrace is ~43.60m. Therefore, in this instance such separation distance is complied with.

The proposed dwelling also shares a side-to-side relationship with existing blocks of flats located to the east and west of the application site, which are subject to a 16.0m separation distance. The separation distances from both Milford Court and Cecil Court are over 16.0m and therefore comply with the Council's RDG SPD.

Overall, Officers consider the proposal is acceptable with regard to its impact on existing residential amenity and would not result in any harmful impacts by reason of loss of light, loss of privacy or loss of outlook to existing neighbouring properties. The proposal accords with Policy BE3 and the Residential Design Guide SPD.

#### *Living conditions for the future occupiers of the site*

Local Plan Policy BE3 states that development will not be permitted that does not provide acceptable standards of amenity for future users and occupiers of the development. This is supported by the Council's Residential Design Guide SPD which provides further information in this respect, though, for example, the provision of minimum separation distances and minimum standards for outdoor private amenity space.

The separation distances set out in the preceding paragraph demonstrate that the dwelling is very well spaced from its nearest neighbours, such that it would provide acceptable levels of light, outlook and privacy. It should also be noted that all habitable rooms will benefit from an acceptable outlook and level of natural daylight. For the same reasons, Officers therefore consider the amenity afforded to its future occupiers would be acceptable insofar as privacy and outlook are concerned.

The dwelling proposed would provide 3-bedrooms, 3-bedroom dwellings are required to provide a minimum garden size of 50m<sup>2</sup> as set out in the Residential Design Guide SPD. The proposed site plan shows that the new dwelling would benefit from ~300m<sup>2</sup> of private rear amenity space.

Overall, Officers are satisfied that the levels of amenity afforded for future occupiers are more than satisfactory having regard to the relevant policies and supplementary guidance and as such the development complies with Policy BE3 and the Residential Design Guide SPD.

### Car Parking and Highway Safety

Policy TR1 of the Warwick District Local Plan requires that 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 adopted Parking Standards SPD requires 3 bedroom dwellings to have 2 off-road parking spaces. The proposed site plan illustrates that these would be comfortably provided within the application site, as well as additional parking. Therefore, the parking proposed is in accordance with parking requirements set out in the SPD and is considered this is acceptable.

The Highways Authority have been consulted as part of the assessment of the application and raise no objection to the proposal, subject to the advisory notes attached.

Overall, Officers consider that the access arrangements for both vehicles and pedestrians are satisfactory and would not compromise highway safety or be detrimental to the safety of motorists, pedestrians, cyclists, or any other road users. Moreover, in the absence of an objection from the Highway Authority, Officers are satisfied that the development accords with Policies TR1 and TR3.

### Ecological Impacts

Policy NE2 of the Local Plan seeks to protect designated areas and species of national and local importance for biodiversity and geodiversity. Policy NE3 of the Local Plan states that new development will only be permitted where it protects, enhances and/or restores habitat biodiversity.

As additional information was required, the County Ecologist has been re-consulted and their comments are outstanding but will be added to the Update Report for Members in advance of the meeting.

### Landscape/Trees

Policy NE4 of the Local Plan states that new development proposals should aim to either conserve, enhance or restore important landscape features in accordance with the latest local and national guidance.

The Council's Tree Officer has been consulted on the submitted tree-related documents and has concluded that the Tree Survey from TreeSafe ref:TS/JW.23 makes reasonable arguments for the tree removals to allow the proposed development to be built out as per the proposed plans, and the alignment and specification of the protective barrier fence to create the construction exclusion zone around the retained trees are good.



The Tree Officer has advised that if recommended for approval, a condition should be imposed to secure the implementation of the proposed tree protection measures set out in the report. It would be considered reasonable and necessary to impose the recommended condition.

It is noted that WCC Landscape have raised objections to the proposal and request a Landscape and Visual Appraisal Assessment (LVA) to assess the impact on the Conservation Area and further surrounding Heritage Assets. However, Officers do not consider such request reasonable for the level of works proposed, it is also noted that such impacts have been assessed by both the Planning Officer and the Conservation Officer and discussed in detail above. The Landscape Officers raises concerns regarding the boundary treatments initially proposed, as such they have been amended in line with the Conservation Officers comments. Again, concerns have been raised regarding the height and scale of the development, whilst it has been reduced since the original submission of the application, the reason for its additional height is because the dwelling sits on stilts, in order to provide mitigation against further flooding due to its close proximity to the river Leam. Officers are awaiting further comments from the LLFA on this matter. Further concerns relate to tree impacts and ecological matters, however the Officers have/will consider comments from the respective departments on these matters.

#### Drainage/Flood Risk

The application site is located within flood zone 3, land within flood zone 3 has a high probability of flooding from rivers.

The Local Lead Flood Authority objected to the application due to the lack of information submitted in order to assess the application. As additional information was required upon receipt, the LLFA were re-consulted and their comments are outstanding but will be added to the Update Report for Members in advance of the meeting.

#### Waste

In terms of waste, there are no changes to the existing arrangements. Waste and recycling storage can be accommodated within the site boundaries and out of sight of the public highway to the rear of the property. It should be noted that Waste Management have raised no objection.

#### Contaminated Land

The Council's Environmental Health Officer has been consulted and notes that an unknown sewage feature was previously located in the northeast area of the development site. The suspected structure is visible on an epoch map dated circa 1843 to 1893 and is not visible on any subsequent mapping. Therefore, it is suggested that a condition is imposed to secure that a watching brief is maintained

during the development works, in the event that any historic structures or visible contamination is encountered.

Sustainability

Local Plan policy CC1 states that all development is required to be designed to be resilient to, and adapt to the future impacts of, climate change through the inclusion of the following adaptation measures where appropriate:

- a) using layout, building orientation, construction techniques and materials and natural ventilation methods to mitigate against rising temperatures;
- b) optimising the use of multi-functional green infrastructure (including water features, green roofs and planting) for urban cooling, local flood risk management and to provide access to outdoor space for shading, in accordance with Policy NE1;
- c) incorporating water efficiency measures, encouraging the use of grey water and rainwater recycling, in accordance with Policy FW3;
- d) minimising vulnerability to flood risk by locating development in areas of low flood risk and including mitigation measures including SuDS in accordance with Policy FW2;

Applicants are required to set out how the design and layout of the development has incorporated the above points. This information can be secured by condition.

**OTHER MATTERS**

Water Efficiency

A condition will be added to ensure compliance with Policy FW3.

Low Emissions

The proposal will result in additional vehicular movements and therefore there is a requirement for the provision of an electric charging point in accordance with the Council's adopted Air Quality SPD. A condition requiring details of the charging point is considered necessary and reasonable and so will be added to any approval granted.

**CONCLUSION/SUMMARY**

It is considered that the amended proposal would preserve the character of the Conservation Area and has an acceptable impact on the street scene and neighbouring amenity. The development does not pose risk to highway safety. The application is therefore 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 drawing(s) (LS)1.0.1/A, (LS)1.2/A, (LS)1.3/A, (LS)1.6/A, (LS)2.0/A, (LS)2.1/A, (LS)2.2/A, (LS)2.4/A, (LS)3.0/B, (LS)3.1/A, (LS)3.2/A , and specification contained therein, submitted on 29th September 2023. **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 Notwithstanding details contained within the approved documents, prior to commencement of development (within its relevant phase), a Sustainability Statement including an energy hierarchy scheme for that phase and a programme of delivery of all proposed measures shall be submitted to and approved in writing by the Local Planning Authority. The document shall include;
- a) How the development will reduce carbon emissions and utilise renewable energy;
  - b) Measures to reduce the need for energy through energy efficiency methods using layout, building orientation, construction techniques and materials and natural ventilation methods to mitigate against rising temperatures;
  - c) Details of the building envelope (including U/R values and air tightness);
  - d) How the proposed materials respond in terms of embodied carbon;
  - e) Consideration of how the potential for energy from decentralised, low carbon and renewable energy sources, including community-led initiatives can be maximised;
  - f) How the development optimises the use of multi-functional green infrastructure (including water features, green roofs and planting) for urban cooling, local flood risk management and to provide access to outdoor space for shading,

For the avoidance of doubt, the scheme must accord with any relevant Development Plan Document and Supplementary Planning Document relating to sustainability which has been adopted by the Council at the time the scheme is submitted.

No dwelling shall be first occupied until the works within the approved scheme have been completed in strict accordance with the approved details and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturer's specifications.

**REASON:** To ensure the creation of well-designed and sustainable buildings and in accordance with Policies CC1 and CC3 of the Warwick District Local Plan (2011-2029) and National Design Guidance (2019).

- 4 The development hereby permitted shall not be occupied unless and until a scheme showing how a water efficiency standard of 110 litres

per person per day based on an assumed occupancy rate of 2.4 people per household (or higher where appropriate) will be achieved has been submitted to and approved in writing by the Local Planning Authority. No dwelling/ unit shall be first occupied until the works within the approved scheme have been completed for that particular dwelling / unit in strict accordance with the approved details and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturer's specifications. **Reason:** To ensure the creation of well-designed and sustainable buildings and to satisfy the requirements of Policy FW3 of the Warwick District Local Plan 2011-2029.

- 5 Prior to the occupation of the dwelling(s) hereby permitted, one 16amp (minimum) electric vehicle recharging point (per dwelling) shall be installed in accordance with details first submitted to and approved in writing by the Local Planning Authority (LPA). Once the electric vehicle recharging point(s) has been installed, the following verification details shall be submitted to and approved in writing by the LPA: (1). Plan(s)/ photograph(s) showing the location of the electric vehicle recharging point(s); (2). A technical data sheet for the electric vehicle recharging point infrastructure; and (3). Confirmation of the charging speed in kWh. Thereafter the electric vehicle recharging point(s) shall be retained in accordance with the approved details and shall not be removed or altered in any way (unless being upgraded). **Reason:** To ensure mitigation against air quality impacts associated with the proposed development in accordance with Policy NE5 of the Warwick District Local Plan and the Air Quality and Planning Supplementary Planning Document.
- 6 No development shall be carried out above slab level unless and until samples of the external facing materials to be used have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details. **Reason:** To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the locality in accordance with Policy BE1 of the Warwick District Local Plan 2011-2029.
- 7 The development hereby permitted shall not be occupied unless and until the refuse and recycling storage areas for the development have been constructed or laid out in strict accordance with the approved plans and made available for use by the occupants of the development. Thereafter those areas shall be kept free of obstruction and be available at all times for the storage of refuse and recycling associated with the development.

No dwelling shall be occupied unless and until it has been provided with the appropriate refuse containers necessary for the purposes of refuse, recycling and green waste, in accordance with the Council's specifications.

Refuse and recycling storage containers must be stored within the refuse and recycling storage area shown on the approved plans, unless when being presented on street for collection facilities.

Reason: To ensure the satisfactory provision of refuse and recycling storage facilities in the interests of amenity and the satisfactory development of the site in accordance with Policy BE1 of the Warwick District Local Plan 2011-2029.

- 8 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken, and where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority. **Reason:** To protect the amenity of future occupiers of the dwelling, in accordance with Policy BE3 of the Warwick District Local Plan 2011 - 2029.
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