

**Planning Committee:** 27 April 2021

Agenda Item: **6**

**Application No:** [W 20 / 1818](#)

**Town/Parish Council:** Leamington Spa  
**Case Officer:** Emma Booker

**Registration Date:** 27/01/21  
**Expiry Date:** 24/03/21

01926 456521 Emma.Booker@warwickdc.gov.uk

**45 George Street, Leamington Spa, CV31 1HA**

Erection of dormer window to rear roofslope to facilitate loft conversion FOR Mr K Sahota

-----

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

**DETAILS OF THE DEVELOPMENT**

Planning permission is sought for the erection of a rear dormer window to this established 5 bed HMO to facilitate a loft conversion to provide a 6th bedroom. The change from a 5 bed HMO to a 6 bed HMO does not in itself require planning permission as the property would remain within Use Class C4.

The proposed development has been significantly amended since original submission in response to concerns raised by Officers and consultees:

- The original floor plans submitted were inaccurate and have been corrected since a visit was made to the site by the Case Officer.
- The initially proposed side-courtyard extension has been omitted and replaced with the extension to the rear lightwell.
- The basement sitting room has been enlarged through an alteration to the internal walls.
- The front basement room is no longer proposed to be used as a sitting room and instead is labelled as storage.
- The width of the proposed dormer has been reduced by 200mm.
- A rooflight has been added to the rear roofslope to serve the attic room.
- The floor level in the attic has been dropped to achieve the ceiling heights and floor area required by Private Sector Housing.

The proposed plans include the installation of a roof light in the rear roofslope, the enlargement of the rear lightwell to provide access from the basement to the garden, alteration of position of a door that provides access to the garden from ground floor level, the infilling of an existing window aperture and installation of a new window to serve the dining room. These elements are considered to be permitted development and are not assessed further as part of application.

**THE SITE AND ITS LOCATION**

45 George Street is a two storey end-of-terrace dwelling located within the Royal Leamington Spa Conservation Area. The property is a licensed 5-bed HMO

The streetscene has a strong Regency character and comprises uniform terraced dwellings dating from the Victorian period alongside modern infill housing developments. The front facades of properties sit on the back edge of the pavement and parking is accommodated on-street. Properties are characterised by brick and rendered facades. Both modest and larger box dormers contribute to the roofscape and the streetscene. The front boundary treatments vary along the street; some properties do not benefit from a formalised front yard area whilst others are separated from the pavement by a brick wall or paint metal railings drilled into a low wall.

## **PLANNING HISTORY**

The lawful use of the subject property is a C4 House in Multiple Occupation. This use predates April 2012 when the Council's Article 4 Direction was established to restrict changes of use from C3 to C4 without the requirement for planning permission. This has been verified by the Council's Enforcement Department in 2020.

## **RELEVANT POLICIES**

- National Planning Policy Framework
- Warwick District Local Plan 2011-2029
- H6 - Houses in Multiple Occupation and Student Accommodation
- BE1 - Layout and Design
- BE3 - Amenity
- TR3 - Parking
- HE1 - Protection of Statutory Heritage Assets
- HE2 - Protection of Conservation Areas
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- Guidance Documents
- Parking Standards (Supplementary Planning Document)
- Residential Design Guide (Supplementary Planning Document- May 2018)
- Royal Leamington Spa Neighbourhood Plan 2019-2029  
Officer Note - While this is not yet formally made (as it has not yet been through a referendum) the above document has been through its final examination and as such is afforded substantial weight in the decision making process. The neighbourhood plan will now proceed to referendum on 06 May 2021.
- RLS3 - Conservation Area

## **SUMMARY OF REPRESENTATIONS**

**Royal Leamington Spa Town Council** – No objection to revised scheme.

**WDC Conservation Officer** – No objection, recommend that consideration be given to the design principles contained within the Council's Residential Design Guide SPD when assessing and determining the application.

**WCC Ecology** - No objection. Recommend protected species notes be attached to any approval granted.

**Private Sector Housing** – No objection to revised proposal.

**Cllr Bryce** - Objects on the following grounds;

- Queries the accuracy of the plans – the HMO is licensed for five people and the applicant is proposing an additional three bedrooms. Queries whether the applicant intends to create an 8 bed HMO. This increase would change the dynamic of the HMO.
- Parking impacts. The area is already recognised as suffering from severe parking stress. This application should be rejected as the applicant has failed to recognise or identify the parking needs for this development.
- The property is in a conservation area.
- The application does not consider any further environmental stress that would be created as a result.

**Cllr Roberts** - Objects on the following grounds;

- Queries the accuracy of the plans – the HMO is licensed for five people and the applicant is proposing an additional three bedrooms. Queries whether the applicant intends to create an 8 bed HMO. This increase would change the dynamic of the HMO.
- Parking impacts. The area is already recognised as suffering from severe parking stress. This application should be rejected as the applicant has failed to recognise or identify the parking needs for this development.
- The property is in a conservation area.

**Public Response** –

26 objections have been received from 22 properties on the following grounds:

- The development increases the occupancy of the HMO by 50%, from 3 beds to 6.
- HMOs within George Street are already in excess of WDC Local Plan Policy H6.
- The Council should be encouraging families into this area in furtherance of a diverse and sustainable community, not more and bigger HMOs with a transient population.
- Have experienced problems with noise, fly tipping and anti-social behaviour from this property for the past 3 years.
- Refuse is left in the street for up to 6 days prior to collection. The tenants have stated that there is not enough storage for waste in the property. No details of waste storage have been submitted.
- The property is in breach of the HMO license conditions on the following grounds. Concern is raised that the issues will worsen with an increase of occupancy in the property; Noise and anti-social behaviour; Refuse storage and collection; Maintenance and repair

- Concern raised over the accuracy of the existing floor plans as only 3 bedrooms were labelled.
- Neighbours query the current demand for additional student accommodation in the context of the on-going pandemic and plans for additional living accommodation to be delivered in the Town Centre in sustain the high streets.
- Heritage impacts. The dormer is not in-keeping nor is the appearance of the existing façade. The courtyard extension is contrary to the Residential Design Guide SPD. Query whether the rooflight is policy compliant.
- Parking impacts due to an increase in occupancy and throughout the construction phase. Highways removed two parking spaces earlier in the year reducing the number of spaces. George Street suffers from parking stress which will be worsened by the development.
- Air quality impacts. George Street and High Street are in an air quality management area, the increased risk of construction traffic and tenant vehicles will add to pollution levels.
- The development results in a loss of the light for the property. Concern is raised in relation to outlook, natural light and ventilation provided to habitable rooms and the suitability of the basement rooms for living spaces.
- Privacy impacts.
- Concern is raised over whether all rooms meet the minimum required standards for bedrooms and communal spaces (floor area and ceiling heights).
- Attention is drawn to the fact that the existing garden is small, the development will reduce the space further whilst increasing occupancy.
- The headroom throughout the cellar area may be unacceptably low and no details of egress has been provided.

## **ASSESSMENT**

### Design and impact on the character of the Conservation Area

Policy BE1 of the Local Plan 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. Policy 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.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty to have special regard to the desirability of preserving a

Conservation Area or its setting when considering whether to grant a planning permission which affects a Conservation Area or its setting.

Paragraph 193 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 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Policy HE1 of the Warwick District Local Plan 2011-2029 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 that harm or loss. The policy also states that 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.

Policy HE2 of the Warwick District Local Plan 2011-2029 seeks to retain the integrity and form of unlisted buildings in the Conservation Area and resist alterations and demolitions to these buildings where this would have an adverse effect upon the overall character of the Conservation Area.

Policy RLS3 of the Royal Leamington Spa Neighbourhood Plan requires proposals 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 e.g. decoration, ornamentation, ironwork.

Whilst the Conservation Officer has not raised an objection to the proposal they have advised that consideration should be given to the design principles contained within the Council's Residential Design Guide SPD when assessing and determining the application.

Objections have been submitted raising concerns over the impact that the development would have on the conservation area. Neighbours highlight that the property has already undergone significant alteration to create the HMO and have concerns that further alterations would detrimentally impact on the conservation area. It is submitted that the dormer is not in-keeping with the character of the George Street or the appearance of the existing façade. Additionally, neighbours objected to the initially proposed side-courtyard extension on the basis of the design and scale being non-compliant with the Residential Design Guide SPD. Lastly, it has been queried whether the rooflight is policy compliant.

Firstly, it is important to state that Officers can only have regard for changes to the property proposed by the applicant. Whilst the existing façade is unique within the streetscene, Officers have no means by which to insist that the applicant propose an alternative paint colour or external facing material. In this particular

case, the existing terracotta façade is not considered relevant to the assessment of the proposed development.

With regard to the design and scale of the dormer extension, the Residential Design Guide SPD stipulates that;

- long horizontal box dormers will not be supported.
- dormers should not be located on the boundary edge of the roof or on the eaves line or at the ridge height level.
- dormers should maintain a gap of at least 1m between the eaves line and/or the edge of the roof.
- Consideration should be given to a modest dormer, appropriately and sensitively located on the roof slope. Ideally, they should be located within the lower 2/3rds of the roof slope.

The applicant has revised the proposed plans to reduce the width of the dormer by 200mm to 1.60 metres and to change the external facing material from hanging tile to lead. Although the design and scale of the dormer does not strictly comply with all of the above design principles, Officers consider that it reads as a modest addition to the property, would sit comfortably in the rear roof slope and would not result in harm to the conservation area. Dormers of varied scale and design exist at neighbour properties in George Street and the adjacent streets, some of which are visible from within the garden of the application site. Officers also have regard to the fact that if the dormer were amended to meet the requirements of the SPD in full it would not be possible to get achieve the required head height for access. Strict compliance with the SPD would be unreasonably prohibitive. The dormer, at the amended scale and in its position in the roofslope, is considered to have an acceptable impact on the character of the property and the wider area and it is therefore considered unreasonable to request that the plans be amended to satisfy the SPD where there is no material harm arising from a deviation from this guidance. Officers are also mindful that planning permission has been granted for many dormers of similar scale and design to the proposed at properties across the conservation area.

The side-courtyard extension has been omitted from the scheme due to concerns raised in relation to amenity. The applicant now proposes to improve the outlook and natural daylight to the basement by an enlargement of the rear lightwell which is not considered to require planning permission.

As previously stated, from the details provided on the elevation plans, the rooflight would comply with the limitations of Schedule 2, Part 1, Class C of the General Permitted Development Order, thus would not require planning permission. The rest of the replacement windows and doors, and the internal alterations, are considered comply with the limitations of Schedule 2, Part 1, Class A of the General Permitted Development Order, thus would not require planning permission.

Overall, the proposal, as amended, is considered to constitute good quality design and satisfies all of the above policies. The development is not considered to result in harm to the character, appearance and significance of the conservation area. The proposal appears in keeping with the traditional character of the application site and respect the form and character of the surrounding properties. Officers consider that the concerns raised by neighbours have been sufficiently considered and addressed.

## Amenity impacts

Warwick District 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 and/or does not provide acceptable standards of amenity for future users and occupiers of the development.

A number of objections have been received raising concerns related to amenity. A common concern is that the development facilitates an increase in the occupancy of the property from 5 to 6 individuals. Neighbours consider that the issues of anti-social behaviour, waste accumulation and storage, noise and litter associated with the property would be exacerbated by an increase in occupancy. As previously stated, this increase in the capacity of the HMO does not require planning permission, the property is a historic HMO in operation prior to when the Council's Article 4 Direction came into place to restrict changes of use from C3 to C4. A C4 Use Class permits up to a 6 person HMO and therefore the proposed increase in occupancy is not a material change of use.

Neighbours have submitted objections on the basis that the existing property is perceived to be in breach of various conditions of the HMO licence related to noise and anti-social behaviour. Licensing and Planning are two separate areas of legislation and whether the property is in breach of the licence conditions is not a material planning consideration. However, it is necessary to assess whether the proposed development would likely exacerbate these issues at the site. Officers consider that direct link cannot be made between the construction of a dormer at a dwellinghouse, and the generation of noise and anti-social behaviour.

Concern is raised over the fact that the existing basement rooms do not provide adequate living conditions. The proposals at basement and ground floor level do not require planning permission. Through the proposed alterations the applicant seeks to improve the living conditions within these spaces. The enlarged lightwell for example provides an improved outlook and increased ventilation and Private Sector Housing have worked closely with the applicant in order to amend the scheme to arrive at an acceptable communal living space for the tenants.

Objections have been submitted in relation to the dormer on the basis that it would compromise the privacy of the neighbours. The existing layout of back-to-back properties along George Street and Forfield Place means that mutual overlooking is part and parcel of living within this area of the town. Existing first floor windows installed within the rear elevation of the application site provide views over the gardens of the adjacent properties and Officers do not consider that the dormer would generate any additional scope for overlooking. Consideration is also given to the fact that the dormer serves a stairwell and views through the window from the main bedroom area, where the user will spend the majority of the time, are constrained by the layout of the space. This element is therefore considered to have an acceptable impact on neighbour amenity.

The internal alterations to the property, such as the ensuite bathrooms in the existing bedrooms, repositioning of walls in the basement and re-purposing of rooms, do not require planning permission. Officers are therefore unable to resist these changes. Neighbours have raised concerns with the floor area and ceiling heights within some of the bedrooms and the basement, however, the Private

Sector Housing Team are satisfied that the amended scheme complies the requirements of the relevant legislation. No concern is therefore raised in relation to this matter from a planning perspective.

Neighbours also consider that the garden of the property is not sufficient in size to cater for 6 occupants. Currently the garden is approx. 50.36sqm in area, which is considered typical for a Victorian terrace dwelling in this area of the town. The development does not reduce the area of amenity space. Although the garden was not landscaped at the time of the visit, the area of external space allows for a small seating area, space to hang laundry and store possessions etc. and small courtyards and gardens are part of the local character. Officers are therefore satisfied that occupiers of the dwelling would still have access to a reasonable area of outdoor space. Consequently, the occupants of the site would retain adequate living conditions in terms of access to outdoor space. Therefore, the proposal would accord with Policy BE3 of the Local Plan, which seeks development to provide acceptable standards of amenity for future users, even though it would fall short of the numerical standards within the SPD.

The proposed dormer is considered to provide adequate living conditions within the attic bedroom. All habitable spaces are considered to be provide with sufficient sources of natural daylight, outlook and ventilation. The amendments to the scheme have addressed the concerns of Officers and the Private Sector Housing Team whom no longer raise an objection. The proposal is considered to have acceptable impacts on the amenity of the neighbours and is therefore compliant with Policy BE3 of the Local Plan.

### Parking

Warwick District Local Plan Policy TR3 states that development will only be permitted that makes provision for parking which does not result in on-street car parking detrimental to highway safety. Development will be expected to comply with the parking standards set out in the most recent Parking SPD.

Objections have been submitted on parking grounds. Neighbours consider that the development would result in additional demand for on-street parking in an area that already suffers from significant parking stress. Neighbours consider that students residing at the property are highly likely to own a car and bring it to university.

The development seeks to increase the number of bedrooms in the property from 5 to 6. The Parking Standards SPD stipulates a standard of 1 space for every 2 rooms for a HMO. Therefore in this case the requirement of 3 parking spaces for the proposed 6 bedrooms is the same as the existing 5 bedrooms. Therefore, the proposals are considered acceptable on parking grounds and comply with Policy TR3 and the Parking SPD.

Lastly, neighbours are concerned that additional parking stress will be generated throughout the construction phase due to the presents skips and construction vehicles. Whilst Officers acknowledge that the development will likely increase demand for parking throughout this time, which could impact negatively on neighbour amenity, the impact is considered short-term and part and parcel of all



development. It is not considered a reasonable ground to withhold the grant of planning permission.

### Waste Management

Policy H6 of the Local Plan states that planning permission will only be granted for Houses in Multiple Occupation where adequate provision is made for the storage of refuse containers where by the containers are not visible from an area accessible by the general public and the containers can be moved to the collection point along an external route only. The purpose of this policy is to prevent unacceptable adverse impacts on amenity.

Policy BE1 states that development must make sufficient provision for sustainable waste management (including facilities for kerbside collection, waste separation and minimisation where appropriate) without adverse impact on the street scene, the local landscape or the amenities of neighbours.

The property is a historic HMO and has been operation prior to the Council's Article 4 Direction. The change of use at the time did not require planning permission meaning that the waste management arrangements in existence at the site have not been subject to planning approval. It is therefore unreasonable to assess the application against the criteria of Policy H6.

Neighbours have submitted objections on the basis that the existing property is perceived to be in breach of various conditions of the HMO Licence related to litter, waste storage/accumulation and collection. As previously discussed, Licensing and Planning are two separate areas of legislation, whether the property is in breach of the licence conditions is not a material planning consideration. However, it is necessary to assess whether the proposed development would likely exacerbate these issues at the site. Officers consider it unlikely that a dormer extension would have an adverse impact on waste management. The development does not decrease the size of the garden and the arrangements for waste management and collection will remain the same. Officers are therefore satisfied that there would continue to be sufficient space for waste storage. Officers also note that Private Sector Housing are satisfied. The proposal is therefore considered to have an acceptable impact from a waste management perspective and to comply with Policy BE1 of the Local Plan.

### Ecology

Local Plan Policy NE2 seeks to protect species of national and local importance for biodiversity and geodiversity. The policy stipulates that development will not be permitted that will destroy or adversely affect protected species.

Photographs of the property were sent to the Ecologist at Warwickshire County Council in response to concerns raised over the potential for the development to disturb a bat roost. After reviewing the photos the Ecologist confirmed that the interlocking roof tiles and appeared well-sealed, a bat survey is therefore not considered necessary and instead the Ecologist has recommended that an advisory note be attached. Advisory notes related to nesting birds and hedgehogs are also recommended.

Officers agree with the above approach and have recommended that the notes be attached to any approval granted. The development is considered to comply with Policy NE2.

#### Other matters

Neighbours have raised concerns with fire safety and the means of escape via the lightwell. Fire safety and egress are not material planning considerations and are instead matters dealt with as part of an application for building regulations and the HMO licence. This matter has not been taken into consideration when assessing the proposed development.

The property is located adjacent to the boundary of the South Leamington Air Quality Management Area and neighbours have objected to the application on the basis that the development would lead to increased pollution, stating that the increased risk of construction traffic and tenant vehicles will add to pollution levels. On the basis of the Parking SPD, the proposal is unlikely to result in increased parking demand. Emissions from construction vehicles are part and parcel of development. Officers are mindful that the scale of the proposal is small and it is unlikely that the proposals would significantly impact on air quality in the Management Area, thus it is considered that it would be unreasonable to refuse planning permission on this basis.

#### **Summary/Conclusion**

The proposal is considered acceptable and is recommended for approval on the basis that it successfully satisfies the criteria of Local Plan policies BE1, HE1, HE2, BE3, TR3 and NE2 and Policy RLS3 of the Neighbourhood Plan.

#### **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) 4051-02E, and specification contained therein, submitted on 16th April 2021. 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.

-----