

Application No: [W 20 / 0735](#)

Town/Parish Council: Kenilworth

Case Officer: Emma Booker

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Expiry Date: 13/07/20

23 Mill End, Kenilworth, CV8 2HP

Erection of a first floor extension over garage. FOR Mr Hector Smith

This application is being presented to Committee due to the number of neighbour objections and an objection from the Town Council having been received.

RECOMMENDATION

It is recommended that Members of the Committee GRANT planning permission for the proposed development, subject to the conditions listed at the end of this report.

DETAILS OF THE DEVELOPMENT

The applicant seeks to obtain planning permission for the erection of a first floor extension to an existing detached garage, located at the rear of the main dwellinghouse at the north end of the application site. The extended building is proposed to accommodate a home office, store and games room at ground floor level, and a guest bedroom, a further store, a bathroom at first floor level. The proposed building is relatively simplistic in design with a dual-pitched roof covered with concrete roof tiles, a modest pitch-roof dormer set into the eaves, a rooflight within the front and rear roof slopes, facing brickwork at ground floor level and fibre-cement cladding at first floor.

THE SITE AND ITS LOCATION

The application site comprises a two storey semi-detached dwelling with a generous rear garden. The building subject of this application is a single storey flat-roof garage characterised by brick and render elevations.

The garage is accessed via a track which runs between two dwellings, no(s) 12 and 14 Forge Road. The vehicular access track leads to an area of hardstanding where there are also two linear blocks of garages. The topography and the layout of built form within the local area means that the garage blocks and hardstanding are overlooked by a large number of dwellings, the building visible from windows installed within the rear elevations of properties situated along Mill End, Woodmill Meadow and Forge Road.

The Tanyard Stream, classified as a main river, runs through the application site at below ground level and is protected by a culvert. The application site is located within Flood Zone 3.

PLANNING HISTORY

W/87/1288 - Planning permission approved in 1987 for the conversion of disused shop and extension of first floor to form a dwelling.

W/07/0173 - Planning permission approved in 2007 for the erection of a two storey rear extension and a single storey rear extension.

W/05/1695 - Planning permission approved in 2005 for the erection of a two and a half storey rear extension, with one side facing dormer window, and one side roof extension.

No planning history was found for works related to the existing garage.

RELEVANT POLICIES

- National Planning Policy Framework

Warwick District Local Plan 2011-2029

- BE3 - Amenity
- BE1 - Layout and Design
- TR3 - Parking
- FW1 - Development in Areas at Risk of Flooding
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- NE4 - Landscape

Guidance Documents

- Parking Standards (Supplementary Planning Document)
- The 45 Degree Guideline (Supplementary Planning Guidance)
- Residential Design Guide (Supplementary Planning Document- May 2018)

Kenilworth Neighbourhood Plan (2017-2019)

- KP12 - Parking Standards
- KP13 - General Design Principles
- KP15 - Environmental Standards of New Buildings

SUMMARY OF REPRESENTATIONS

Kenilworth Town Council - Objection on the following grounds;

- Poor layout and design, contrary to policy KP13 of the Neighbourhood Plan and BE1 of the Local Plan

- Constitutes back land development
- Loss of amenity

Members commented that any development needs careful impact assessment for flood risk in such a sensitive area and gave reference to policy KP15 of the Neighbourhood Plan which seeks to address matters relating to the environmental impact of the development.

Warwickshire County Council as the Lead Local Flood Authority (LLFA) - No objection.

Warwick District Council Tree Officer - No objection, a TPO for the ash tree is not considered appropriate.

Warwickshire County Council Ecological Services - Recommend that notes relating to bats and nesting birds, as protected species, are attached to any approval granted to this application.

Environment Agency - No objection, the applicant should agree to build the structure in accordance with the recommendations made in the submitted statement from the Structural Engineer.

Public response - Objections received on the following grounds;

- The development will increase flood risk
- Loss of light
- The development will impact on the local bat population by interfering with a flight route
- Loss of the tree which provides privacy to properties and gardens
- The existing garage's concrete raft is not substantial enough to support a second storey
- The Tanyard stream culvert is close to the development, if damaged it will result in flooding of Forge Road and Mill Road
- The development will lead to an increase in parking and speeding vehicles, which will result in the obstruction of the garages and increased noise from traffic
- Potential for the building to be converted to living accommodation
- The tarmac surface at the front of the garage area could be seriously damaged by construction vehicles. Neighbour requests that the applicant agrees in writing to cover the costs of any repairs.
- Neighbour requests further clarity regarding the connection of services to the building
- Neighbour requests that the applicant put it in writing that the building will not accommodate a kitchen and be used as a dwelling. If used as a separate dwelling this would result in extra traffic in an already congested area, having an adverse impact on neighbour amenity.
- Loss of privacy, the building will overlook approx. 10 properties
- The plans do not provide sufficient detail of relative height of the proposed development against numbers 14, 16, 18 and 20 Forge Road.
- The proposal is an overdevelopment of the site and will result in a two storey building that will be direct view of 10 properties and blight a

reasonably pleasant outlook gained from the surrounding properties in Mill End, Forge Road and Woodmill Meadows

- Increased parking stress.

Cllr Dave Shilton (WCC Park Hill Ward) - The Tanyard Stream is now classed as a river and serves a large area of the Town. It is requested that the application is referred to the County Council.

ASSESSMENT

Design and impact on character and appearance of the streetscene

The NPPF (2019) places an increased emphasis on the importance of achieving good quality design as a key aspect of sustainable development. Paragraph 127 states that planning decisions should ensure that developments are visually attractive as a result of good architecture and layout. Development is expected to function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. It also states that decisions should ensure that developments are sympathetic to the local character and history, while not preventing or discouraging appropriate innovation or change (such as increased densities). Lastly, it is stated that development should maintain a strong sense of place by using building materials which create attractive, welcoming and distinctive places to live, work and visit.

Local Plan Policy BE1 echoes paragraph 127 of the NPPF and states that new development will be permitted where it positively contributes to the character and quality of its environment through good layout and design. Proposals are expected to demonstrate that they harmonise with, or enhance, the existing settlement in terms of physical form, patterns of movement and land use. Proposals are expected to relate well to local topography and landscape features, reinforce or enhance the established urban character of streets and reflect, respect and reinforce local architectural distinctiveness. Of particular relevance to this application, this policy also requires proposals to respect surrounding buildings in terms of scale, height and massing, and adopt appropriate materials and details.

Policy KP13 of the Kenilworth Neighbourhood Plan seeks to ensure that proposals achieve a standard of design that is appropriate to the local area. Proposals are expected to demonstrate a positive response to the characteristics of the site and surrounding area.

Kenilworth Town Council have objected to the proposal on the grounds of poor layout and design, they consider that the proposal fails to satisfy the criteria policy KP13 of the Neighbourhood Plan and policy BE1 of the Local Plan. It is considered that the proposal development would constitute back land development and result in a loss of amenity to the surrounding dwellings.

Several neighbours have also raised concerns with the design of the development with the opinion that the proposal would be an overdevelopment of the site, resulting in a two storey building that will be in direct view of 10 properties. The

proposal is also considered to blight a reasonably pleasant outlook gained from the surrounding properties in Mill End, Forge Road and Woodmill Meadows. One neighbour also considers that the plans do not provide sufficient detail of relative height of the proposed development against numbers 14, 16, 18 and 20 Forge Road.

Whilst it is appreciated that the proposed development will introduce a two storey structure to the area currently occupied by blocks of single storey garages, it is not considered that the proposed additional storey would have an adverse impact on the character of the area. The proposed development will equally be read in conjunction with the surrounding two storey dwellings, therefore when observed from within the application site, from surrounding roads and dwellings, it is not considered that the proposed building would appear as an incongruous feature. The area is characterised by both single storey and two storey buildings, the proposed development is therefore considered to positively respond to the characteristics of the site and the surrounding area.

Officers do not consider that the proposal constitutes back-land development. The two storey building will be situated a significant distance from the main dwellinghouse and the land on which it is to be built already reads as an extension of the adjacent garage and hardstanding area, thus the development will not appear as back-land development. In addition to this, it is important to note that the proposal is for an additional storey on top of an existing garage, therefore the principle of development here already exists, thus it is not considered that the development would have an adverse impact on the character of the area nor constitute back-land development. Rather, Officers consider that the proposal is appropriately located and in keeping with the existing built form in terms of design and location.

The architectural design of the proposed building is considered to be relatively simple and reflective of the character of the surrounding properties. The modest front gable feature which has been set into the eaves to reduce its bulk and mass, is considered to be in keeping with the modest dormer windows which can be found at nearby properties. The fenestration is simple and considered appropriate for the intended use of the structure as an ancillary building.

The proposed external facing materials for the building are considered appropriate and will enable the structure to blend in with its surroundings. The surrounding area has a varied material palette with hanging tile, render and facing brickwork all visible from within the application site. The proposed building will feature facing brickwork and render at ground floor level, cement-fibre cladding at first floor and concrete roof tiles. The cladding is proposed to be a 'timber bark' colour (brown), it is considered that this will further mitigate the visual impact of the 2nd storey and would not appear as a stark contrast with the surrounding built form and vegetation.

Overall, the proposed development is considered appropriate in terms of design, scale and location. It is not considered that the proposals would result in an incongruous feature, instead the proposed building harmonises with the

surrounding built form and has an acceptable visual impact. The proposal is considered to comply with all of the aforementioned planning policies.

Impact on neighbouring properties and the current and future occupiers of the development

Local Plan Policy BE3 requires all development to have an acceptable impact on the amenity of all neighbouring residents, in terms of light, outlook and privacy. The Council's Residential Design Guide SPD provides a design framework for Policy BE3 and states that extensions should not breach a 45 degree line taken from the nearest habitable room of a neighbouring property. This serves to protect against loss of light and outlook. Kenilworth Neighbourhood Plan Policy KP13 supports this policy by requiring development proposals to give regard to the impact on the residential amenity of the existing and future residents.

Objectors to the development consider that the proposal would have an adverse impact on neighbour amenity by virtue of the fact that the first floor will overlook approximately 10 properties. A single window and two roof lights are proposed to be installed within the south-west and north-east facing elevations of the building.

Neither of the roof lights will serve habitable rooms, it is considered that the users of the building are unlikely to spend prolonged periods of time in these spaces and the impact that the rooflights will have on the privacy of the neighbours is acceptable.

The window proposed to be fitted within the front elevation of the building will serve a guest bedroom and will provide views out over the existing garages and the gardens of 22 and 21 Mill End. The common approach is that windows which provide views out over a neighbour's privacy amenity space should be at least 11.0 metres away in order to adequately protect the neighbour's amenity. The proposed window will be at least 14 metres from the rear boundary of 22 Mill End and direct views down this neighbour's garden are significantly interrupted by a mature Ash tree, which Officers note is proposed to be retained. The proposed window will be at least 16 metres from the rear boundary of 21 Mill End. Whilst it is appreciated that the proposed extension will create a new vantage point from which elevated views will be gained, the window is far enough from the neighbour's rear boundary's to adequately preserve their privacy. Officers are also mindful that mutual overlooking is an established part of living within this area of the town where housing density is relatively high, therefore it is not considered that the impact that the development will have on the privacy of the neighbours would warrant the refusal of this application.

Officers are satisfied that all habitable rooms within the building will benefit from adequate light and outlook.

The proposal is acceptable and in accordance with Local Plan Policy BE3 and Kenilworth Neighbourhood Plan Policy KP13.

Parking

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.

Kenilworth Neighbourhood Plan Policy KP12 states that development proposals should incorporate parking and cycle spaces at or above the numerical and design expectations set out in the Parking Standards.

The development provides an additional bedroom for the main dwellinghouse and therefore has the potential to increase demand for parking. At the time of the site visit, Officers were able to observe an area of hard standing in front of the existing garage which is contained within the application site's boundary. There is no boundary treatment to prevent vehicular access to this area from the parking area in between the rows of linear garages. The hard standing area is large enough to provide off-street parking for at least three vehicles without encroaching outside the site's boundary. The proposed extension will not increase the footprint of the existing garage, it is therefore considered that the development will not reduce the existing off-street parking provision for the dwelling and is unlikely to increase demand for on-street parking due to the provision of 3 parking spaces, in accordance with the requirements of the Parking SPD. The development is considered acceptable on parking grounds and compliant with both aforementioned policies.

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.

Ecological Services have recommended that advisory notes relating to the protection of bats and nesting birds are attached to any approval granted. Officers consider this approach acceptable for the scale of the development. The proposal is considered to comply with Policy NE2.

Trees

Local Plan Policy NE4 seeks to ensure that significant landscape features are protected from harm, this includes assets such as trees which are considered to have amenity value. Proposals are required to avoid detrimental effects on features which make a significant contribution to the character, history and setting of an asset, settlement, or area.

There is a mature ash tree planted within close proximity to the existing garage. The council's tree officer made a visit to the application site to consider whether a tree preservation order was appropriate. They decided that the tree wasn't worthy of protection on the basis that ash dieback disease is prevalent in the locality and will potentially kill all ash trees. They also considered that the structure of the tree is highly defective with a weak fork causing the tree to lay down adaptive growth around it to try and prevent failure of the union, which may or may not be

successful. Lastly, the tree officer has highlighted that the tree is on the south of the proposed development and so if it were to be retained, and if the development were to proceed, the council would be receiving cyclical request for pruning work until the tree succumbed to ash dieback and died.

On the basis of the above, officers consider the tree is not worthy of protection via a tree preservation order. The development will not have a detrimental impact on any significant landscape features and is therefore considered acceptable with regard to Policy NE4.

Flood Risk

The application site is located within flood zone 3 as it lies adjacent to the culverted river, The Tanyard Stream, which is classified as a main river.

Kenilworth Town Council have commented that the development needs a careful impact assessment for flood risk as it is located within a sensitive area. Neighbours have also objected on the basis that the development will increase flood risk.

The Lead Local Flood Authority at Warwickshire County Council have reviewed the application and have raised no objection to the development in relation to drainage surface water management. As no new impermeable area is being created and the drainage will be as existing, they do not have concerns about an increase in flood risk from an increase in surface water run-off.

The Environment Agency have also been consulted on the application. It was requested that the applicant take into account the culvert and its condition to ensure that the loading caused by the proposed extension does not have any additional impact on the culvert structure.

In response the applicant provided a survey of the site to show the route of the culvert in relation to the existing garage, it shows that the garage impinges marginally on the culvert. The applicant has also provided a letter from a structural engineer who considers that the proposed development will not result in any additional loading if supported by a steel frame carried on independent foundations. They have advised that the foundation nearest to the culvert should be taken down to the depth of the invert level so that the culvert is not subjected to additional sidelading and to ensure that the frame load is totally isolated from the culvert. They have also advised that all other foundations will need to be designed at a depth so no lateral or vertical load is transmitted to the culvert. The Environment Agency responded that if the applicant agrees to this method of construction and the culvert is not impacted by the foundations, they would have no further comments to make regarding this application.

The applicant has agreed in writing to the described method of construction included in the letter from the structural engineer. Officers consider the would be onerous to request that the applicant submit further drawings detailing the construction of the proposed extension as this is dealt with and secured at building regulations stage. Instead, for the purposes of this planning application,

it is considered that an advisory note should be attached to any approval granted to remind the applicant that they as the landowner are responsible for maintaining the culvert and that they have agreed to a method of construction which is considered to prevent harm to the structure.

In light of the above, it is considered that the applicant has sufficiently addressed matters related to flood risk and the development is unlikely to increase flood risk within the locality. As required by policy FW1, it is recommended that a pre-condition be imposed on any approval granted to secure the submission of details of the proposed floor levels and flood proofing / resilience and resistance techniques. Once approved in writing by the Local Planning Authority, the condition would require the development to be carried out in strict accordance with the approved details. Policy FW1 requires the finished floor levels within the converted garage to be 600 millimetres above the predicted flood level.

The proposal is considered acceptable and in accordance with Policy FW1.

Other matters

Neighbours have raised concerns that the building has the potential to be converted to living accommodation and have requested that the applicant put in writing that the building will not accommodate a kitchen and be used as a dwelling. Neighbours consider that if the building were used as a separate planning unit, the development would result in extra traffic in an already congested area having an adverse impact on neighbour amenity.

Planning applications must be assessed on the basis of what the applicant has applied for. In this case a householder application has been submitted for an extension to an existing garage to provide an ancillary building to the main dwellinghouse, proposed to accommodate an office/games room, bedroom, storage and a bathroom. Whilst officers acknowledge that the building has potential to be converted to a dwelling, this potential is not a material consideration in the assessment of this planning application as acceptability of the proposal itself is what must be assessed.

Neighbours have also raised concerns that the development could cause damage to the tarmac surface at the front of the garage area, they have requested that the applicant agrees in writing to cover the costs of any repairs. Damage to adjacent property caused throughout the construction phase is not a material consideration in the assessment of planning applications, instead this is a civil matter that needs to be settled between the interested parties.

A neighbour has requested further clarity regarding the connection of services to the building, these details are submitted as part of an application for building regulations and fall outside of the control of planning.

As part of their objection, Kenilworth Town Council refer to KP15 of their adopted neighbourhood development plan. Kenilworth Town Council "requests that the applicants address matters relating to the environmental impact of the development with the aim of the resulting property, in its entirety, having an

improved energy efficiency and water efficiency, where affected, compared to the existing property." KP15 encourages applicants to adopt higher environmental standards of building design and energy performance. Given that the policy seeks to encourage rather than require additional sustainability measures, this is not something that can be insisted upon. Officers acknowledge that the scale of the development is small and therefore consider that it would be unreasonable to insist on the provision of such information from the applicant.

Summary/Conclusion

The application is acceptable and considered to comply with Local Plan Policies BE1, BE3, TR3, FW1, NE2 and NE4, and Neighbourhood Plan Policies KP13 and KP12. 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) 443.02, and specification contained therein, submitted on 18th May 2020. **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 not commence unless and until details of proposed floor levels and flood proofing / resilience and resistance techniques have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in strict accordance with the approved details. **Reason:** In the interests of reducing occupant's risk from flooding, in accordance with Policy FW1 of the Warwick District Local Plan 2011-2029 and to secure a satisfactory form of development in accordance with the Environment Agency's Standing Advice.
