

Planning Committee: 10 October 2017

Item Number: 5

Application No: [W 16 / 1287](#)

Town/Parish Council: Leamington Spa
Case Officer: Rob Young

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Registration Date: 14/07/16

Expiry Date: 13/10/16

Station Approach, Leamington Spa, CV31 3NN

Minor material amendment to planning permission ref: W/15/0905 to allow for minor changes to the landscaping and site layout. Planning permission ref: W/15/0905 was for a residential development. FOR Waterloo Housing Group

This application is being reported to Planning Committee because it is recommended that planning permission be granted subject to the completion of a legal agreement.

RECOMMENDATION

Planning Committee are recommended to GRANT planning permission, subject to conditions and subject to completion of a Supplementary Deed which binds the existing section 106 agreement to the new permission.

DETAILS OF THE DEVELOPMENT

The application proposes a minor material amendment to planning permission no. W15/0905 to allow for minor changes to the landscaping and site layout. This includes changes to the landscaping alongside the railway line to comply with the requirements of Network Rail as well as changes to the parking layout across various parts of the site.

These changes are very minor in nature. For example it includes changing the parking between plots 31-16 and plots 37-44 to tandem parking to accommodate a larger turning head, with an associated minor repositioning of those dwellings. With regard to landscaping the changes are similarly minor in nature, an example being the omission of tree planting that was proposed immediately alongside the railway maintenance path on the southern edge of the development, with the adjacent avenue of trees alongside this retained within the landscaping scheme.

THE SITE AND ITS LOCATION

The application site relates to a linear parcel of land of some 4.7 hectares, located north of Leamington Station and south of Avenue Road/Park Drive. The site is located behind existing properties fronting the highway. The eastern edge of the site bounds Lower Avenue.

The main access into the site is the junction of Station Approach and Avenue Road (located adjacent to the former Old Library/Art Gallery), with a secondary exit located at the mini roundabout junction between Avenue Road and Adelaide Road.

The site is 'brownfield' land that was previously occupied by a bus depot, car sales lot, vacant buildings and car parks, including a Warwick District Council car park. The conservation area bounds the north of the site, incorporating existing houses fronting Avenue Road. A residential development is currently being constructed on the site.

PLANNING HISTORY

In February 2016 planning permission was granted for "Demolition of the existing bus depot, car sales lot and disused building between the lower and upper portions of Station Approach and changes to existing Warwick District Council car park reducing spaces from 300 down to 100. Construction of 212 homes consisting of 118 flats and 94 houses with ancillary parking, open space and associated highway alterations to Station Approach" (Ref. W15/0905).

Prior to that there had been a number of previous applications relating to the previous uses on the site and in relation to proposals for commercial and residential redevelopments.

RELEVANT POLICIES

- National Planning Policy Framework
- DS2 - Providing the Homes the District Needs (Warwick District Local Plan 2011-2029)
- TR4 - Parking (Warwick District Local Plan 2011-2029)
- BE1 - Layout and Design (Warwick District Local Plan 2011-2029)
- BE3 - Amenity (Warwick District Local Plan 2011-2029)
- DS11 - Allocated Housing Sites (Warwick District Local Plan 2011-2029)
- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Open Space (Supplementary Planning Document - June 2009)
- The 45 Degree Guideline (Supplementary Planning Guidance)
- Vehicle Parking Standards (Supplementary Planning Document)
- Residential Design Guide (Supplementary Planning Guidance - April 2008)
- Distance Separation (Supplementary Planning Guidance)

SUMMARY OF REPRESENTATIONS

Town Council: No objection.

Public response: One objection has been received raising the following concerns:

- loss of privacy;
- loss of light;
- noise and disturbance;

- traffic congestion; and
- air quality.

Two other residents have submitted comments neither objecting to or supporting the application but raising the following queries:

- a hawthorn has been removed from the rear of 3 and 5 Avenue Road, was this supposed to be removed?
- has there been a significant reduction in tree planting or retention between block E and the backs of the buildings on Avenue Road?

Inland Waterways Association: No objection.

WCC Ecology: No objection.

WCC Archaeology: No comment.

WCC Highways: No objection.

WCC Landscape: No objection.

WDC Environmental Health: No objection.

ASSESSMENT

The proposed amendment would not have any significant implications for the consideration of the main issues that were assessed in relation to the previous planning application for this site. This includes the principle of development, affordable housing / housing mix, car parking and highway safety, drainage / flood risk and renewable energy. Therefore the development remains acceptable in those regards.

The amendments do need to be assessed in relation to the impact the character and appearance of the area, the impact on the living conditions of neighbouring dwellings and ecology / landscaping.

The applicant advises that the amendments were necessary to comply with Network Rail regulations in relation to landscaping adjacent to the railway line, as well as to meet the requirements of WCC Highways. In this context it is not considered that the proposed changes can be objected to. The changes have been accepted by WCC Highways, WCC Landscape and WCC Ecology. The amended landscaping and site layout would be appropriate for this location and there is sufficient planting to provide an appropriate landscaped setting for the development. Therefore the proposals would have an acceptable impact on the character and appearance of the area. As there has been no objection from WCC Ecology, the proposals are also considered to be acceptable in terms of the ecological impact. Finally, with regard to neighbour impact, the proposed amendments would not result in any greater impact on neighbouring dwellings than was the case with the approved scheme.

A neighbour has queried whether there will be any significant reduction in tree planting to the rear of Block E. The previous indicative landscaping proposals did propose a line of tree planting between the access road to the rear of this block and the parking spaces in Lower Station Approach. This tree planting has been omitted from the revised scheme. However, there is shrub planting in this location and this is considered sufficient to provide a suitable landscaped setting for this part of the development. There is a separation distance of 50m from Block E to the rear of the nearest residential property on Avenue Road and consequently trees are not essential in this location from a screening point of view.

The other comments made by neighbours have been carefully considered. These have either been dealt with in the assessment above or were covered in the assessment of the previous planning application. None of the points raised would justify a refusal of planning permission for the proposed amendments.

The applicant has agreed to complete a Supplementary Deed which will bind the new planning permission to the existing section 106 agreement.

SUMMARY / CONCLUSION

The proposed amendments would have an acceptable impact on the character and appearance of the area and on the living conditions of neighbouring dwellings. Furthermore the proposals would have an acceptable ecological impact. Therefore it is recommended that planning permission is granted for this minor amendment.

CONDITIONS

- 1 The development hereby permitted shall begin not later than 04/02/2019. **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) MP01, 02, 03, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16 (Rev P1); HA1_01, HA02_01, HC1_01, HC2_01, HD1/2_01, HD3/4_01, HE1_01, HF1_01, HF2_01, HGK1_01, HH1_01, HI1_01, HJ1_01, (Rev P01); B_A_01, B_A_02, B_A_03, B_A_E01, B_A_X01, B_B_01, B_B_03, B_B_03, B_B_E01, B_B_X01, B_C_01, B_C_02, B_C_03, B_C_E01, B_C_X01, B_D_01, B_D_02, B_D_03, B_D_E01, B_D_X01, B_E_01, B_E_02, B_E_03, B_E_E01, B_E_X01, B_FGH_01, B_FGH_E01 (Rev 01); G_01, G_02, G_03 (Rev P1); ES_01 Rev P1; SE_01, SE_02, SE_03 (Rev P01); BMD.15.007.DR.P002, BMD.15.007.DR.P104, BMD.15.007.DR.P101, BMD.15.007.DR.P102, BMD.15.007.DR.P103, BMD.15.007.DR.P001, MID3943_001, AAJ5036_LS-01_E, AAJ5036_LS-02_E, AAJ5036_LS-03_E, AAH5314/01-1A & AAH5314/01-2A, and specification contained therein, submitted on 8 June 2015, 13 July 2016 & 18 August 2016. **REASON :** For the avoidance of doubt and to secure a satisfactory form of

development in accordance with Policies BE1 & BE3 of the Warwick District Local Plan 2011-2029.

- 3 The development shall not be first occupied until all the works within the renewable energy / energy efficiency scheme that was approved under condition 3 of planning permission no. W15/0905 have been completed and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturer's specifications. **REASON:** To ensure that adequate provision is made for the generation of energy from renewable energy resources or to achieve carbon savings in accordance with the provisions of Policy CC3 of the Warwick District Local Plan 2011-2029.
- 4 The development hereby permitted shall be carried out in strict accordance with details of surface and foul water drainage works that were approved under condition 4 of planning permission no. W15/0905. **REASON:** To ensure that adequate drainage facilities are available for the satisfactory and proper development of the site in accordance with Policy FW2 of the Warwick District Local Plan 2011-2029.
- 5 Prior to each phase of development approved by this planning permission no development shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:
 1. A supplementary site investigation scheme, based on the findings and recommendations of the two ground investigation reports produced by GIP Ltd (report refs. ML/21961, dated 26th June 2014 and ML/22841, dated 10th April 2015) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. This should be carried out following the vacation of the site by the current occupiers, allowing full access to all areas of the site.
 2. The results of the site investigation and the detailed risk assessment referred to in (1) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 3. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components will require details to be resubmitted to the Local Planning Authority for subsequent agreement. The scheme shall be implemented as approved. **REASON :** To protect the quality of 'Controlled Waters' receptors on and in the vicinity of the site, primarily the groundwater held within the underlying Secondary A aquifer and for the satisfactory and proper development of the site in accordance with

Policies NE5 & FW2 of the Warwick District Local Plan 2011-2029.

- 6 None of the dwellings hereby permitted shall be occupied until a trespass proof fence adjacent to the boundary with the railway has been installed in strict accordance with the details approved under condition 6 of planning permission no. W15/0905. **REASON :** To protect the adjacent railway from unauthorised access and improve community safety in accordance with Policy HS7 of the Warwick District Local Plan 2011-2029.
- 7 The development shall be carried out in strict accordance with the details of ground levels, earthworks and excavations to be carried out near to the railway boundary that were approved under Condition 7 of planning permission no. W15/0905. **REASON :** To protect the adjacent railway from any undue disruption to the operation of train services.
- 8 The open space scheme that was approved under Condition 8 of planning permission no. W15/0905 shall be implemented in accordance with the approved details and shall be retained thereafter. **REASON:** To ensure appropriate open space and recreational facilities are provided to serve the development in accordance with Policy HS4 of the Warwick District Local Plan 2011-2029.
- 9 No lighting shall be installed or operated other than in strict accordance with the lighting details that were approved under Condition 9 of planning permission no. W15/0905. **REASON:** To ensure that any lighting is designed so as not to detrimentally affect the amenities of the occupiers of nearby properties and that appropriate measures are taken in relation to protected species in accordance with Policies BE3, NE4 and NE5 of the Warwick District Local Plan 2011-2029.
- 10 The Construction and Environmental Management Plan that was approved under Condition 10 of planning permission no. W15/0905 shall be implemented in full. **REASON :** To ensure that protected species are not harmed by the development in accordance with National Planning Policy Framework (NPPF), ODPM Circular 06/2005 and Policy NE2 of the Warwick District Local Plan 2011-2029.
- 11 No construction shall be undertaken until a Construction Management Plan, which should contain a Construction Phasing Plan, measures to prevent mud and debris being deposited on the highway, details of any temporary measures required to manage traffic during construction, plans and details for the turning and unloading and loading of vehicles within the site during construction, dust suppression, demolition or clearance works, delivery times, restrictions on burning, details of all temporary contractors buildings, plant and storage of materials associated with the development process and HGV Routing Plan is submitted and approved by the Local Planning Authority. All details shall be carried out as approved. **REASON :** In the interests of highway safety and the amenities of the occupiers of nearby properties,

the free flow of traffic and the visual amenities of the locality in accordance with Policies BE3, TR1, TR4 & NE5 of the Warwick District Local Plan 2011-2029.

- 12 The development shall be carried out only in full accordance with the sample details of the facing and roofing materials that were approved under Condition 12 of planning permission no. W15/0905. **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.
- 13 The Low Emission Strategy that was approved under Condition 13 of planning permission no. W15/0905 shall be implemented in strict accordance with the approved details. **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 aims and objectives of national guidance within the NPPF 2012.
- 14 The scheme detailing low energy mechanical ventilation that was approved under Condition 14 of planning permission no. W15/0905 shall be implemented in accordance with the approved details and shall be retained thereafter. **REASON:** To protect residents of the development from the adverse effects of noise and disturbance from outside the development in accordance with Policies BE3 & NE5 of the Warwick District Local Plan 2011-2029.
- 15 The bat mitigation measures that were approved under Condition 15 of planning permission no. W15/0905 shall be implemented in full. **REASON :** To ensure that protected species are not harmed by the development in accordance with Policy NE2 of the Warwick District Local Plan 2011-2029 and the aims and objectives of the NPPF.
- 16 The development shall be carried out in strict accordance with the surface water drainage scheme that was approved under Condition 16 of planning permission no. W15/0905. **REASON :** To prevent the increased risk of flooding; to improve and protect water quality; to improve habitat and amenity; and to ensure the future maintenance of the sustainable drainage structures in accordance with Policy FW2 of the Warwick District Local Plan 2011-2029 and the NPPF.
- 17 The development shall not be occupied until the scheme for the provision of adequate water supplies and fire hydrants that was approved under Condition 17 of planning permission no. W15/0905 has been implemented to the satisfaction of the Local Planning Authority. **REASON:** In the interests of fire safety.
- 18 An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any

contamination on the site, whether or not it originates on the site and any report of the findings must be submitted to and approved in writing by the local planning authority prior to first occupation. The report of the findings, to be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11', must include; (i) a survey of the extent, scale and nature of contamination; (ii) an assessment of the potential risk to; human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monument; (iii) an appraisal of remedial options, and proposal of the preferred option(s). **REASON:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled water, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policies NE2 & NE5 of the Warwick District Local Plan 2011-2029.

- 19 The development shall be undertaken in accordance with a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared which shall be submitted to and approved in writing by the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. **REASON:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled water, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policies NE2 & NE5 of the Warwick District Local Plan 2011-2029.
- 20 The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced shall be submitted to and approved in writing by the local planning authority. **REASON:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled water, property and ecological systems, and to ensure that

the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policies NE2 & NE5 of the Warwick District Local Plan 2011-2029.

- 21 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 in accordance with the requirements of condition (No.18), and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition (No.19), which shall 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 in accordance with condition (No.20). **REASON:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled water, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policies NE2 & NE5 of the Warwick District Local Plan 2011-2029.
- 22 If an air source heat pump is chosen as the method to comply with the requirement for renewable energy, noise arising from the air source heat pump(s) permitted, when measured one metre from the facade of any noise sensitive premises, shall not exceed the background noise level by more than 3dB (A) measured as LAeq (5 minutes). If the noise in question involves sounds containing a distinguishable, discrete, continuous tone (whine, screech, hiss, hum etc.) or if there are discrete impulses (bangs, clicks, clatters, thumps etc.) or if the noise is irregular enough to attract attention, 5dB(A) shall be added to the measured level. **REASON:** To protect the amenities of the occupiers of nearby properties in the locality in accordance with Policies BE3 & NE5 of the Warwick District Local Plan 2011-2029.
- 23 No part of the development hereby permitted shall be commenced and nor shall any equipment, machinery or materials be brought onto the site until the scheme for the protection of all existing trees and hedges to be retained on site that was approved under Condition 23 of planning permission no. W15/0905 has been put in place. Nothing shall be stored or placed in those areas fenced in accordance with this condition and nor shall the grounds levels be altered or any excavation take place without the prior consent in writing of the Local Planning Authority. The approved scheme shall be kept in place until all parts of the development have been completed and all equipment, machinery and surplus materials have been removed. **REASON :** To protect trees and other features on site during construction in accordance with Policy NE4 of the Warwick District Local Plan 2011-2029.

- 24 The hard landscaping works shall be completed in full accordance with the approved details within three months of the first occupation of the first dwellinghouse (of that relevant phase and all planting shall be carried out in accordance with the approved details in the first planting and seeding seasons following the first occupation (of that relevant phase). Any tree(s) or shrub(s) which within a period of five years from the completion of the development dies, is removed or becomes in the opinion of the local planning authority seriously damaged, defective or diseased shall be replaced in the next planting season with another of similar size and species, unless the local planning authority gives written consent to any variation. All hedging, tree(s) and shrub(s) shall be planted in accordance with British Standard BS4043 – Transplanting Root-balled Trees and BS4428 – Code of Practice for General Landscape Operations. **REASON:** To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies BE1, BE3 and NE4 of the Warwick District Local Plan 2011-2029.
- 25 No infiltration of surface water drainage into the ground is permitted other unless this has been agreed in writing with the Local Planning Authority. This may be appropriate only for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details. **REASON :** To protect the quality of 'Controlled Waters' receptors on and in the vicinity of the site and for the satisfactory and proper development of the site in accordance with Policies NE5 and FW2 of the Warwick District Local Plan 2011-2029.
- 26 If piling or any other foundation designs using penetrative methods are used works shall not commence unless and until details have first been submitted to and agreed in writing by the Local Planning Authority. Penetrative foundation methods may be appropriate for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details. **REASON :** Piling or any other foundation designs using penetrative methods can result in risks to potable supplies from, for example, pollution / turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways. Thus it should be demonstrated that any proposed piling will not result in contamination of groundwater in accordance with Policy NE5 of the Warwick District Local Plan 2011-2029 and the NPPF.
- 27 Prior to groundworks, remediation or built construction the access to the site shall be implemented, located and laid out in general accordance with drawing MID3943_001. **REASON:** To ensure that a satisfactory access in the interests of highway safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.