

Planning Committee: 09 January 2018

Item Number: 10

Application No: [W 17 / 2087](#)

Town/Parish Council: Kenilworth

Case Officer:

Rob Young

01926 456535 rob.young@warwickdc.gov.uk

Registration Date: 07/11/17

Expiry Date: 06/02/18

Talisman Square, Warwick Road, Kenilworth

Minor material amendment to planning permission no. W16/1139 to allow for minor changes to the height, footprint, design and windows of the proposed building, together with the relocation and increase in size of the rooftop amenity space, the addition of a rooftop plant zone, the replacement of retail storage areas with additional student bedrooms and the substitution of cluster flats for some of the studios. Planning permission no. W16/1139 was for a mixed use development comprising 1533sqm of retail floor space at ground floor and 65 residential units (mix of cluster flats and studio rooms) above. FOR Cobalt Estates (Kenilworth) Ltd

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

RECOMMENDATION

Planning Committee are recommended to GRANT planning permission for the proposed amendments, subject to the completion of a deed for variation to tie the existing section 106 agreement to the new permission. Should a satisfactory Section 106 Agreement not have been completed by 6 February 2018, Planning Committee are recommended to delegate authority to the Head of Development Services to REFUSE planning permission on the grounds that the proposals make inadequate provision in respect of the issues the subject of that agreement.

DETAILS OF THE DEVELOPMENT

The application proposes a minor material amendment to planning permission no. W16/1139 to allow for the following changes:

- increase in height by 915mm;
- increase in depth of building by 400mm;
- increase in depth of 4th floor by 700mm and provision of additional 4th floor space by increasing previously approved 4 storey wing to a partial 5 storeys;
- elevational changes including the insertion of additional windows;
- relocation and increase in size of rooftop amenity space;
- addition of rooftop plant zone;
- replacement of first floor retail storage areas with additional student bedrooms;
- substitution of cluster flats for some of the studios; and
- other associated changes to the internal layout.

The result is that there would be a total of 41 residential units, comprising 12 cluster flats and 29 studios. This compares with the approved scheme which

showed a total of 65 units, comprising 6 cluster flats and 59 studios. In terms of the overall number of bedrooms, the amended scheme has 121, while the approved scheme had 107.

The applicant has given the following explanation for the changes.

"The reason for the [height] change itself is a result of various changes in the construction market which means that the building will now be constructed using a steel frame rather than a concrete structure. This requires deeper internal structural floor zones which leads to an increase in height of 0.150m (6 inches) or 2 bricks per floor. To restrict the increase as far as practicable the depth for the distribution of services within the building has also been minimised as far as possible (otherwise the difference could have been greater).

In addition to the construction issues, retailers now demand that soil pipes from residential units above no longer run into and through their ceiling voids (and the competitiveness within this market means that the current scheme needs to address this requirement). A floor void is, therefore, incorporated into the scheme between the student and retail components (at no little additional cost to the proposals as a whole). This requirement adds a further 0.500m (1ft 7 in) to the height of the building.

With respect to the retail layout, we are seeking to address the comments received from the marketing of the site, which began before the submission of the original application. For Unit A, being the only retail unit which is progressing, the storage space at first floor is not required. Furthermore, there is little or no interest locally in units the size originally approved, hence the alterations sought."

The following amendments have been made following the submission of this application:

- revised design of bike stands to accommodate an increase in the number of cycle parking spaces to 63; and
- kitchen layouts amended to address the comments of WDC Private Sector Housing.

THE SITE AND ITS LOCATION

The site comprises part of the Talisman Square shopping precinct. It is currently used as a temporary car park pending redevelopment. The site formerly contained retail units fronting onto a square. Two of these retail units remain within the site, fronting onto Station Road.

The site adjoins the Boots retail unit to the west and faces further retail units on the opposite sides of Talisman Square to the south and east. The upper floors of the buildings on the opposite sides of Talisman Square include residential accommodation, a gym and offices. The pedestrian walkways of Talisman Square run along the southern and eastern boundaries of the site. Station Road and commercial units in that road form the northern boundary of the site. There is vehicular access into the site from Station Road.

The site is situated within Kenilworth Town Centre, within the retail area as designated in the Local Plan. Talisman Square is also designated as a primary

retail frontage. The surrounding area is predominantly commercial in character, although there is residential accommodation on the upper floors of some of the surrounding buildings.

PLANNING HISTORY

In 2004 planning permission was granted for "Erection of 5 retail units with 4 flats above; erection of a restaurant and extension to existing retail unit with alterations to service/parking yard after demolition of part existing retail units" (Ref. W03/1260). This planning permission was not implemented.

In 2012 planning permission was granted for "Change of use of land to create a car park comprising 44 car parking spaces including 4 disabled spaces and cycle parking" (Ref. W12/1255). This was a temporary planning permission that expires in November 2017.

In July 2017 planning permission was granted for "Mixed use development comprising 1533sqm of retail floor space at ground floor and 65 residential units (mix of cluster flats and studio rooms) above" (Ref. W16/1139).

Prior to the above applications there had been a number of other previous applications dating back to the original construction of the square in the 1960s. However, these were all for minor alterations and extensions and none of these are relevant to the consideration of the current application.

RELEVANT POLICIES

- National Planning Policy Framework
- DS2 - Providing the Homes the District Needs (Warwick District Local Plan 2011-2029)
- DS3 - Supporting Sustainable Communities (Warwick District Local Plan 2011-2029)
- DS5 - Presumption in Favour of Sustainable Development (Warwick District Local Plan 2011-2029)
- PC0 - Prosperous Communities (Warwick District Local Plan 2011-2029)
- TCP1 - Protecting and Enhancing the Town Centres (Warwick District Local Plan 2011-2029)
- TCP2 - Directing Retail Development (Warwick District Local Plan 2011-2029)
- TCP6 - Primary Retail Frontages (Warwick District Local Plan 2011-2029)
- H0 - Housing (Warwick District Local Plan 2011-2029)
- H1 - Directing New Housing (Warwick District Local Plan 2011-2029)
- H6 - Houses in Multiple Occupation and Student Accommodation (Warwick District Local Plan 2011-2029)
- SC0 - Sustainable Communities (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- BE1 - Layout and Design (Warwick District Local Plan 2011-2029)
- BE3 - Amenity (Warwick District Local Plan 2011-2029)
- TR1 - Access and Choice (Warwick District Local Plan - 2011-2029)
- TR3 - Parking (Warwick District Local Plan - 2011-2029)
- HS1 - Healthy, Safe and Inclusive Communities (Warwick District Local Plan 2011-2029)
- HS4 - Improvements to Open Space, Sport and Recreation Facilities (Warwick District Local Plan 2011-2029)

- HS6 - Creating Healthy Communities (Warwick District Local Plan 2011-2029)
- HS7 - Crime Prevention (Warwick District Local Plan 2011-2029)
- CC1 - Planning for Climate Change Adaptation (Warwick District Local Plan 2011-2029)
- CC3 - Buildings Standards Requirements (Warwick District Local Plan 2011-2029)
- FW2 - Sustainable Urban Drainage (Warwick District Local Plan 2011-2029)
- FW3 - Water Conservation (Warwick District Local Plan 2011-2029)
- FW4 - Water Supply (Warwick District Local Plan 2011-2029)
- NE1 - Green Infrastructure (Warwick District Local Plan 2011-2029)
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets (Warwick District Local Plan 2011-2029)
- NE3 - Biodiversity (Warwick District Local Plan 2011-2029)
- NE5 - Protection of Natural Resources (Warwick District Local Plan 2011-2029)
- DM1 - Infrastructure Contributions (Warwick District Local Plan 2011-2029)
- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Vehicle Parking Standards (Supplementary Planning Document)
- Open Space (Supplementary Planning Document - June 2009)
- Residential Design Guide (Supplementary Planning Guidance - April 2008)
- Distance Separation (Supplementary Planning Guidance)
- The 45 Degree Guideline (Supplementary Planning Guidance)

SUMMARY OF REPRESENTATIONS

Town Council: Object on the following grounds:

- this is not a minor change;
- the increase in height, together with massing on top, make this even less in keeping with the character of the area;
- the reduction in retail space has implications for the size of the shops, viability and waste storage;
- there has been no increase in cycle or car parking to account for the increase in the number of students;
- increased loss of light to Talisman Square;
- safety concerns about the enlarged rooftop amenity area, which should not extend out to the edge of the building; and
- the fact that this was postgraduate accommodation affected the Town Council's previous decision, but it now appears to be changing in character.

Public response: 10 objections have been received, raising the following concerns:

- the application is misleading and does not clearly describe the proposed changes;
- the number of student bedrooms are proposed to increase by 15%;
- the cycle parking provision has reduced from 67 to 54;
- one row of spaces in the cycle store will be unusable due to lack of space;
- the retail floorspace will be reduced due to the omission of most of the first floor retail storage space;
- the reduction in retail floorspace will undermine the retail function of Kenilworth;
- harm to the character and appearance of the area;

- the building as approved was already too high compared with the 2 and 3 storey buildings in the locality - the proposed amendment makes this a metre higher;
- the rooftop plant will further increase the height of the building;
- the building is wider than approved;
- the external appearance of the building is not in keeping with Kenilworth;
- lack of space for soft landscaping;
- overdevelopment;
- increasing the amount of cluster flats at the expense of studio room makes this less likely to be occupied by post-graduate student as was originally suggested;
- loss of light to the square and surrounding shops;
- lack of adequate servicing space;
- loss of the existing car park;
- insufficient parking;
- this development will turn Talisman Square into an unsafe alleyway;
- detrimental to safety in the square at night;
- littering from the external amenity areas;
- this will become an eyesore because student properties are usually untidy; and
- an awning may help screen the student development from the street and provide shelter for shoppers.

WCC Ecology: No objection.

WDC Private Sector Housing: No objection. Make recommendations in relation to the kitchen specifications.

WDC Environmental Health: No objection, subject to a condition to control plant noise.

WDC Waste Management: No objection.

ASSESSMENT

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

- whether the proposals would cause a harmful over-concentration of student accommodation / houses in multiple occupation in this area;
- the impact on the living conditions of neighbouring dwellings;
- the impact on the character and appearance of the area;
- car parking and highway safety;
- the impact on the vitality and viability of the town centre; and
- provision for the storage of refuse and recycling.

Whether the proposals would cause a harmful over-concentration of student accommodation / houses in multiple occupation in this area

In assessing the approved scheme it was judged that those proposals would not cause a harmful over-concentration of student accommodation / houses in multiple occupation in this area. In reaching this conclusion, regard was had to the fact that there are currently only 2 houses in multiple occupation within a 100m radius of the site and the fact that the site is situated on a main thoroughfare within a predominantly commercial area. In this context, it is not

considered that the proposed amendment to add 14 further student bedrooms to the development would now create a harmful over-concentration of student accommodation / houses in multiple occupation in the area.

Impact on the living conditions of neighbouring dwellings

The above section dealt with the wider impacts on the living conditions of nearby residents resulting from the general concentration of students on the application site and in the surrounding area. Given that the site is accessed from a main thoroughfare and is situated within a busy part of the town centre, it is not considered that the increase in the number of bedrooms by 14 will cause unacceptable noise and disturbance for nearby residents. The next section will deal with the more immediate impacts on adjacent residents in terms of potential loss of light, loss of outlook or loss of privacy.

In this regard the main impacts would result from the increase in size of the proposed building and the additional windows that are proposed. In the context of the overall size of the building, the increases in height and depth are limited. These changes would not result in a material increase in loss of light or loss of outlook for surrounding dwellings. Therefore these revised proposals remain acceptable in these regards.

Turning to the impact of the new windows, the main impact would be on the dwellings on the upper floors of Sexton House, on the opposite side of Talisman Square. However, the approved scheme included a large number of windows in the elevation facing Sexton House. Therefore the provision of additional windows in this elevation would not result in a material increase in overlooking. The additional first floor windows are proposed to be angled windows to match those approved for this level.

With regard to the plant zone, Environmental Health have raised no objection, subject to the Council's standard plant noise condition. Therefore it has been concluded that the addition of the plant zone will not cause unacceptable noise and disturbance for nearby residents.

For the above reasons it has been concluded that the proposed amendments would have an acceptable impact on the living conditions of neighbouring dwellings.

Impact on the character and appearance of the area

As approved, the proposed building would already have been taller than surrounding development. However, in granting planning permission for that scheme, regard was had to the presence of taller buildings in the wider area and the fact that the site is situated within the commercial core of the town centre, where higher densities are to be expected and reflect the objective of making the best use of land in sustainable locations. Furthermore it was noted that a variety of materials and design features had been used to break up the mass of the buildings. In this context, it is not considered that the limited increase in height and depth that are proposed would harm the character and appearance of the area. The scale and mass of the building remains appropriate for this location.

In terms of the external design changes, these are considered to be appropriate and in keeping with design of the building as approved as well as existing

surrounding development. Therefore it has been concluded that the proposed amendments would have an acceptable impact on the character and appearance of the area.

Car parking and highway safety

The approved scheme included no parking for the student accommodation; this element of the scheme was approved as car free. The site is situated within a residents' parking zone and the applicant submitted a unilateral undertaking which ensured that future occupants would not be entitled to residents' parking permits. As a result it was concluded that those proposals would not increase parking congestion on surrounding streets.

Given that this was approved as a car-free scheme where residents would not be entitled to residents' parking permits, it is not considered that the increase in the number of bedrooms proposed in this amendment would increase parking congestion on surrounding streets. Therefore it has been concluded that these revised proposals remain acceptable in terms of parking.

For the same reasons it has been concluded that the proposals remain acceptable in terms of highway safety.

In terms of cycle parking, the number of spaces has been increased in proportion to the number of additional bedrooms. Therefore the proposals remain acceptable in this regard. With regard to the concerns that have been raised about the space between the cycle racks, this is considered to be adequate given the fact that these are semi-vertical racks and therefore take up less space.

Impact on the vitality and viability of the town centre

Objectors have raised concerns about the impact on the vitality and viability of the town centre due to the reduction in the amount of retail floorspace compared with the approved scheme. However, the whole of the ground floor remains designated for retail use. Therefore the proposals accord with Local Plan Policy TC6 in relation to preserving the retail function of this primary retail frontage. There is no policy requirement for retail floorspace to be provided on the upper floors of new developments within the retail area of the town centre. In reality, the provision of a substantial new development containing retail units and a significant amount of residential floorspace will enhance the vitality and viability of the town centre.

Provision for the storage of refuse and recycling

The Council's Waste Management team have raised no objection to the revised refuse and recycling storage arrangements. Therefore it has been concluded that the amendments make adequate provision for the storage and collection of refuse and recycling.

Other matters

The amendment to the layout of the kitchens has addressed the issue raised by WDC Private Sector Housing.

Objectors have raised a number of other concerns about the proposals, but none of these are considered to justify a refusal of planning permission for the amendments. Many of these issues were considered in the assessment of the original planning application and cannot now be reconsidered in the assessment of these proposed amendments.

CIL

This proposal will be CIL liable, the amount of which will be calculated following the determination of the application.

SUMMARY / CONCLUSION

The proposed amendments would not create a harmful over-concentration of student accommodation / houses in multiple occupation in the locality. Furthermore, the amendments would have an acceptable impact on the living conditions of neighbouring dwellings and on the character and appearance of the area. Finally the amendments are considered to be acceptable in terms of car parking and highway safety and in terms of the provision for the storage of refuse and recycling. Therefore it is recommended that planning permission is granted for these amendments.

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 application form and approved drawing(s) 0133-P429-A, 0133-P430-K, 0133-P431-K, 0133-P432-J, 0133-P433-J, 0133-P434-K 0133-P435-D, 0133-P446-B, 0133-P447-B, 0133-P458-A, 0133-P459-A, 0133-P460-B, 0133-P462-A & 0133-P463-A, and specification contained therein, submitted on 6 November 2017 & 14 December 2017. **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 be carried out only in full accordance with sample details of the facing and roofing materials which shall have been submitted to and approved in writing by the local planning authority. **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.
- 4 The development hereby permitted shall not be commenced unless and until a scheme showing how either a). at least 10% of the predicted energy requirement of the development will be produced on or near to the site from renewable energy resources, or b). a scheme showing how at least 10% of the energy demand of the development and its CO² emissions would be reduced through the initial construction methods and materials has been submitted to and approved in writing by the

Local Planning Authority. No part of the development shall be first occupied until the works within the approved scheme have been completed for that particular part of the development 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.

- 5 No development shall commence until details of surface and foul water drainage have been submitted to and approved in writing by the local planning authority. The development shall be carried out in strict accordance with such approved details. **REASON:** To ensure that adequate drainage facilities are available and to minimise flood risk, in accordance with the National Planning Policy Framework and Policy FW2 of the Warwick District Local Plan 2011-2029.
- 6 No development shall commence until details of the finished floor levels of all buildings, together with details of existing and proposed site levels on the application site and the relationship with adjacent land and buildings have been submitted to and approved in writing by the local planning authority. The development shall be carried out in strict accordance with these approved details or any subsequently approved amendments. **REASON:** To ensure sufficient information is submitted to demonstrate a satisfactory relationship between the proposed development and adjacent land and buildings in the interests of amenity in accordance with Policies BE1 & BE3 of the Warwick District Local Plan 2011-2029.
- 7 No development shall commence until details of obscure glazing for the angled window bays have been submitted to and approved in writing by the local planning authority. The development shall be carried out in strict accordance with the approved details. Prior to the occupation of the residential accommodation hereby permitted, any parts of the angled bay windows that are shown to be obscure glazed in the details approved under this condition shall be permanently glazed with obscured glass to a degree sufficient to conceal or hide the features of all physical objects from view and shall be non-opening. The obscured glazed window shall be retained and maintained in that condition at all times. **REASON :** To protect the privacy of users and occupiers of nearby properties and to satisfy the requirements of Policy BE3 of the Warwick District Local Plan 2011-2029.
- 8 No development shall take place within the application site, unless and until a programme of archaeological works and investigations has been secured and initiated in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. **REASON:** In order to ensure any remains of archaeological importance, which help to increase our understanding of the Districts historical development are recorded, preserved and protected were applicable, before development commences in accordance with Policy HE4 of the Warwick District Local Plan 2011-2029.

9 Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the District Planning Authority), the following components of a scheme 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 preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) The site investigation results and the detailed risk assessment (2) 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.

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the District Planning Authority. The scheme shall be implemented strictly as approved.

REASON : To ensure the protection of controlled waters and to prevent pollution in accordance with Policy NE5 of the Warwick District Local Plan 2011-2029.

10 The development hereby permitted shall not be occupied unless and until the car parking and manoeuvring areas indicated on the approved drawings have been provided and thereafter those areas shall be kept marked out and available for such use at all times. **REASON:** To ensure that a satisfactory provision of off-street car parking and turning facilities are maintained at all times in the interests of the free flow of traffic and highway safety in accordance with Policies TR1 & TR3 of the Warwick District Local Plan 2011-2029.

11 No part of the residential accommodation hereby permitted shall be occupied unless and until the bin and cycle stores have been constructed in strict accordance with the approved plans. The bin and cycle stores shall be retained at all times thereafter. **REASON :** To protect the amenities of occupiers of the site and the character and appearance of the locality and to ensure that there are adequate cycle parking facilities to serve the development, in accordance with Policies

BE1, BE3 & TR3 of the Warwick District Local Plan 2011-2029.

- 12 The residential accommodation hereby permitted shall be used solely as a student hall of residence, and ancillary purposes thereto, being occupied solely by persons enrolled in a full time course of further or higher education. **REASON** : The parking provision may not be sufficient for a conventional residential development, in accordance with Policy TR3 of the Warwick District Local Plan 2011-2029.
- 13 The residential accommodation hereby permitted shall not be occupied unless and until a Management Plan has been submitted to and approved in writing by the District Planning Authority. The Management Plan shall cover the following:
- warden supervision arrangements;
 - building and site access and egress arrangements;
 - traffic management including drop off and pick up arrangements;
 - CCTV provision and security;
 - green travel proposals including cycle parking provision and management;
 - waste facilities provision and management; and
 - a strict code of behaviour.

The approved Management Plan shall be implemented in full at all times that the premises are occupied as a student hall of residence.

REASON : To protect the amenities of occupiers of the site and the character and appearance of the locality, in accordance with Policies BE1 & BE3 of the Warwick District Local Plan 2011-2029.

- 14 The development hereby permitted shall not be occupied until a Low Emission Strategy has been submitted to and approved in writing by the local planning authority. The approved Low Emission Strategy shall be implemented in strict accordance with the approved details and shall remain in force at all times thereafter. **REASON**: To ensure mitigation against air quality impacts associated with the proposed development, in accordance with Policy NE5 of the Warwick District Local Plan 2011-2029.
- 15 No deliveries (incoming or leaving) or noisy external activities likely to cause nuisance to nearby residences shall take place before 0730 hours or after 2130 hours on Mondays to Saturdays or before 0900 hours or after 1800 hours on Sundays. **REASON** : To protect the living conditions of nearby dwellings, in accordance with Policies BE3 & NE5 of the Warwick District Local Plan 2011-2029.
- 16 All HGV's accessing or egressing the site, whether service or delivery vehicles, shall be routed via the District Council's Abbey End car park and the direct access to the proposed development from the public highway Station Road. **REASON** : In the interests of highway safety and protecting the living conditions of nearby residents, in accordance with the requirements of Policies BE3 & TR1 of the Warwick District Local Plan 2011-2029.

- 17 Noise arising from any plant or equipment at these premises, when measured one metre from the façade 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 occupants of nearby properties in accordance with Policies BE3 & NE5 of the Warwick District Local Plan 2011-2029.
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