

# Planning Committee

Tuesday 9 January 2018

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A meeting of the above Committee will be held at the Town Hall, Royal Leamington Spa on Tuesday 9 January 2018 at 6.00pm.

Councillor Cooke (Chairman)

Councillor Day (Vice Chairman)

Councillor Boad

Councillor Mrs Hill

Councillor Mrs Bunker

Councillor Morris

Councillor D'Arcy

Councillor Mrs Stevens

Councillor Edgington

Councillor Weed

Councillor Heath

## Emergency Procedure

At the commencement of the meeting the emergency procedure for the Town Hall will be displayed on screen for information.

## Agenda

### Part A – General

#### 1. Apologies and Substitutes

- (a) to receive apologies for absence from any Councillor who is unable to attend; and
- (b) to receive the name of any Councillor who is to act as a substitute, notice of which has been given to the Chief Executive, together with the name of the Councillor for whom they are acting.

#### 2. Declarations of Interest

Members to declare the existence and nature of interests in items on the agenda in accordance with the adopted Code of Conduct.

Declarations should be entered on the form to be circulated with the attendance sheet and declared during this item. However, the existence and nature of any interest that subsequently becomes apparent during the course of the meeting must be disclosed immediately. If the interest is not registered, Members must notify the Monitoring Officer of the interest within 28 days.

Members are also reminded of the need to declare predetermination on any matter.

If Members are unsure about whether or not they have an interest, or about its nature, they are strongly advised to seek advice from officers prior to the meeting.

3. **Site Visits**

The Chairman to report the location of the planning application sites visited and the names of the Committee Members who attended.

4. **Minutes**

To confirm the minutes of the Planning Committee of 5 December 2017.

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**Part B – Planning Applications**

To consider the following reports from the Head of Development Services:

5. **W/17/1614 – 19–21 Wise Street, Royal Leamington Spa** **(Pages 1 to 25)**  
**\*\*This is a major application\*\***
6. **W/17/1641 – The Barn, Stareton Lane, Stoneleigh** **(Pages 1 to 4)**
7. **W/17/1700 – Covent Garden Multi-Storey Car Park, Russell Street, Royal Leamington Spa** **(Pages 1 to 26)**  
**\*\*This is a major application\*\***
8. **W/17/1701 – Riverside House, Milverton Hill, Royal Leamington Spa** **(Pages 1 to 24)**  
**\*\*This is a major application\*\***
9. **W/17/1828 – 121–123 Warwick Road, Kenilworth** **(Pages 1 to 12)**
10. **W/17/2087 – Talisman Square, Warwick Road, Kenilworth** **(Pages 1 to 12)**  
**\*\*This is a major application\*\***
11. **W/17/2136 – 35 Greville Smith Avenue, Whitnash** **(Pages 1 to 3)**
12. **W/17/2166 – 154 Rugby Road, Cubbington** **(Pages 1 to 3)**

**Part C – Other matters**

13. **Appeals Report** **(To follow)**

Please note:

- (a) the background papers relating to reports on planning applications are open to public inspection under Section 100D of the Local Government Act 1972 and consist of all written responses to consultations made by the Local Planning Authority in connection with the planning applications referred to in the reports, the County Structure Plan Local Plans and Warwick District Council approved policy documents.
- (b) all items have a designated Case Officer and any queries concerning those items should be directed to that Officer.
- (c) in accordance with Council's Public Speaking Procedure, members of the public can address the Planning Committee on any of the planning applications or Tree Preservation Order reports being put before the Committee. If you wish to do so, please call 01926 456114 (Monday to Thursday 8:00am to 7:00pm, Friday 8:00am to 6:00pm and Saturday 9:00am to 1pm) or email [committee@warwickdc.gov.uk](mailto:committee@warwickdc.gov.uk), anytime after the publication of this agenda, but

before 12 noon on the working day before the day of the meeting and you will be advised of the procedure.

- (d) please note, that the running order for the meeting may be different to that published above, in order to accommodate items where members of the public - Have registered to address the Committee.
- (e) occasionally items are withdrawn from the agenda after it has been published. In this instance, it is not always possible to notify all parties interested in the application. However, if this does occur, a note will be placed on the agenda via the Council's web site, and where possible, the applicant and all registered speakers (where applicable) will be notified via telephone.

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General Enquiries: Please contact Warwick District Council, Riverside House, Milverton Hill, Royal Leamington Spa, Warwickshire, CV32 5HZ.

Telephone: 01926 456114

E-Mail: [committee@warwickdc.gov.uk](mailto:committee@warwickdc.gov.uk)

For enquiries about specific reports, please contact the Case Officer named in the reports.

You can e-mail the members of the Planning Committee at

[planningcommittee@warwickdc.gov.uk](mailto:planningcommittee@warwickdc.gov.uk)

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Please note that the majority of meetings are held on the first floor of the Town Hall. If you feel that this may restrict you attending this meeting, please telephone (01926) 456114 prior to the meeting, so that we can assist you and make any necessary arrangements to help you to attend the meeting.

The agenda is available in large print on request,  
prior to the meeting, by telephoning (01926)  
456114

# Planning Committee

Minutes of the meeting held on Tuesday 5 December 2017 in the Town Hall, Royal Leamington Spa at 6.00 pm.

**Present:** Councillor Cooke (Chairman); Councillors Mrs Bunker, D'Arcy, Day, Edgington, Gifford, Mrs Hill, Margrave, Morris, Mrs Stevens and Weed.

**Also Present:** Committee Services Officer – Mrs Dury; Legal Advisor – Mr Howarth; Head of Development Services – Mrs Darke; and Senior Planning Officer – Mr Young.

## 111. Apologies and Substitutes

- (a) There were no apologies for absence.
- (b) Councillor Gifford substituted for Councillor Boad and Councillor Margrave substituted for Councillor Heath.

## 112. Declarations of Interest

Minute Number 120 – W/17/1829 – 41 the Fairways, Royal Leamington Spa

Councillor Gifford declared an interest because he had been in extensive consultations with residents and he would be speaking as Ward Councillor on this application. After he spoke on the application, he left the room until after the decision had been made by the Committee on that application.

Minute Number 126 – W/17/1752 – 32 Hamilton Terrace, Royal Leamington Spa

All members of the Committee declared an interest just prior to consideration of this application on the advice of officers because the applicant site was owned by the District Council.

## 113. Site Visits

To assist with decision making, Councillors Mrs Bunker, Cooke, Day, D'Arcy, Edgington, Mrs Hill, Mrs Stevens and Weed had visited the following application sites on Saturday 2 December 2017.

W/17/1946 – 5 Fairfax Close, Barford  
W/17/1829 – 41 the Fairways, Royal Leamington Spa

Councillor Gifford visited 5 Fairfax Close only.

## 114. Minutes

The minutes of the meeting held on 7 November 2017 were taken as read and signed by the Chairman as a correct record.

## **PLANNING COMMITTEE MINUTES (Continued)**

### **115. W/17/1639 – The Bungalow, Honiley Road, Beausale**

The Committee considered an application from Forte Projects Limited for the demolition of the existing bungalow and the construction of two detached dormer bungalows and the formation of one new access to the highway.

The application was presented to Committee because an objection had been received from Beausale, Haseley, Honiley and Wroxall Parish Council.

The officer was of the opinion that the principle of development was considered acceptable having regard to both the provision of new residential development in this location and the Green Belt where Policy H11 confirmed that the proposal for two dwelling represented an appropriate form of development in the Green Belt. The proposed dwellings would not result in demonstrable harm to the character of the local area or the appearance of the street scene and there would be no resulting harm caused to the amenity of nearby neighbouring properties. There were no objections from the County Highways Authority and the development proposed suitable access and parking arrangements such that there would be no detriment to highway safety. Any ecological concerns could be adequately mitigated through appropriate conditions.

Overall, the development was considered to accord with the relevant provisions of the Development Plan and for these reasons it was recommended that planning permission be granted.

An addendum circulated at the meeting advised a clarification regarding proposed condition 4 (landscaping scheme). The condition included a requirement to provide details of replacement planting and in pursuance of this the applicant and their agent had been advised that a suitable landscaping scheme to be agreed would include details of replacement planting along at least part of the frontage boundary to replace what was previously removed.

Additional representations had been received from the Parish Council concerning the use of the required open space contribution which they proposed was used at Wren Hall.

One additional neighbour representation had been received with an attached photograph and copies of Land Registry documentation, the latter of which related to a private matter and was not a material planning consideration.

The following people addressed the Committee:

- Council Bird from Beausale, Haseley, Honiley and Wroxall Parish Council, speaking against the application;
- Mrs Harper, the adjacent neighbour, who objected to the application; and
- Councillor Gallagher, Ward Councillor, also speaking against the application.

Following consideration of the report, presentation, information contained in the addendum and the representations made at the meeting, it was

## **PLANNING COMMITTEE MINUTES (Continued)**

proposed by Councillor Mrs Stevens and seconded by Councillor Edgington that the application should be granted. Following a vote of eight votes to two in favour of the motion, it was agreed to add an amendment to include the clarification to condition 4 as stipulated in the Addendum. Councillor Mrs Stevens and Councillor Edgington were in agreement for this to be added and on a second vote,

The Committee therefore

**Resolved** that W/17/1639 be **granted** in accordance with the recommendations in the report and the clarification of condition 4 as detailed in the addendum, subject to the following 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 submitted on 29 September 2017, approved drawing 3103-08 'Proposed Visibility Splays' submitted on 25 October 2017 and approved drawings 3103-05, 3103-06, 3103-07 and 3103-08 'Street scene of 2 Dwellings' specification contained therein, submitted on 6 November 2017. **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) other than site clearance and preparation works no works shall commence on the construction of the development hereby permitted until samples of the external facing materials to be used have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. **Reason:** To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the locality in accordance with Policy BE1 of the Warwick District Local Plan 2011-2029;
- (4) the development hereby permitted shall only be undertaken in strict accordance with details of both hard and soft landscaping works which have been submitted to and approved in writing by the Local Planning Authority. Details of soft landscaping shall include any

## **PLANNING COMMITTEE MINUTES (Continued)**

replacement planting proposed within the site and/or around the perimeter of the site and at least in relation to the frontage boundary to replace planting removed. Details of hard landscaping works shall include boundary treatments, including full details of any proposed boundary walls, railings and/or gates to be erected, specifying the colour of any railings and gates; footpaths; and hard surfacing, which shall be made of porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area. The hard landscaping works shall be completed in full accordance with the approved details within three months of the first occupation of the development hereby permitted; and all planting shall be carried out in accordance with the approved details in the first planting and seeding seasons following the first occupation. 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 and NE4 of the Warwick District Local Plan 2011-2029;

- (5) no part of the development hereby permitted shall be commenced (including demolition, site clearance or other preparatory works) and nor shall any equipment, machinery or materials be brought onto the site until a scheme for the protection of all existing trees and hedges to be retained on site has been submitted to and approved in writing by the District Planning Authority and has been put in place. The scheme must include details of the erection of stout protective fencing and be in accordance with British Standard BS5837:2012, Trees in Relation to design, demolition and construction. Nothing shall be stored or placed in those areas fenced in accordance with this condition and nor shall the ground levels be
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## **PLANNING COMMITTEE MINUTES (Continued)**

altered or any excavation take place without the prior consent in writing of the District 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 Policies BE1 and NE4 of the Warwick District Local Plan 2011-2031;

- (6) no part of the development hereby permitted, including site clearance, shall be commenced until a combined ecological and landscaping scheme has been submitted to and agreed in writing by the Local Planning Authority (in conjunction with WCC Ecological Services). The scheme must include all aspects of landscaping including details of native tree/wildflower planting and installation of bird and bat boxes. The agreed scheme shall thereafter be fully implemented before and during development of the site as appropriate. **Reason:** To ensure a net biodiversity gain in accordance with Policies NE3 and NE4 of the Warwick District Local Plan 2011-2031;

- (7) unless the Local Planning Authority certifies that suitable alternative provision has been made for the provision or improvement of open space within the catchment area of the application site in accordance with Policy HS4 of the Warwick District Local Plan 2011-2029:

(i) no development shall commence unless or until a scheme for such provision or improvement (identifying the size/extent, location and specification of the space and works) has been submitted to and approved in writing by the Local Planning Authority; and

(ii) the dwellings hereby permitted shall not be occupied until the scheme so approved has been implemented in strict accordance with the approved details.

**Reason:** To ensure the necessary infrastructure and facilities are provided in accordance with Policy HS4 of the Warwick District Plan 2011-2029;

- (8) the development hereby permitted shall be undertaken in the presence of a qualified bat worker appointed by the applicant to check all suitable features in the roof of the buildings to
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## PLANNING COMMITTEE MINUTES (Continued)

be demolished and to check all trees to be removed for bats and nesting birds immediately prior to works commencing. All roofing material is to be subsequently removed carefully by hand. Appropriate precautions must be taken in case bats are found, such as the erection of at least one bat box on a suitable tree or building. Should evidence of bats be found during this operation, then work must cease immediately while Natural England and WCC Ecological Services are consulted for further advice. If nesting birds are found the works cannot commence until the young have fledged. Any subsequent recommendations or remedial works will be implemented within the timescales agreed between the bat worker and the Local Authority Ecologist/Natural England. Notwithstanding any requirement for remedial work or otherwise, the qualified bat worker's report shall be submitted to the local planning authority within 1 month following completion of the supervised works to summarise the findings. **Reason:** To ensure that protected species are not harmed by the development in accordance with Policy NE2 of the Warwick District Local Plan 2011-2031;

- (9) the development shall not be occupied until visibility splays have been provided to the vehicular accesses to the site passing through the limits of the site fronting the public highway with an 'x' distance of 2.4 metres and 'y' distances of 120 metres to the near edge of the public highway carriageway, in accordance with drawing no. 3103-08. No structure, tree or shrub shall be erected, planted or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway.

**Reason:** In the interests of highway safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2031;

- (10) the development shall not be occupied until the accesses to the site have been positioned and laid out in accordance with drawing no. 3103-08. **Reason:** In the interests of highway safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2031;

- (11) the accesses to the site for vehicles shall not be used in connection with the development until they have been surfaced with a bound material for a minimum distance of 7.5 metres as measured from the near edge of the public
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## **PLANNING COMMITTEE MINUTES (Continued)**

highway carriageway. **Reason:** In the interests of highway safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2031;

(12) the accesses to the site for vehicles shall not be used unless public highway verge crossings have been laid out and constructed in accordance with the standard specification of the Highway Authority. **Reason:** In the interests of highway safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2031;

(13) the development hereby permitted shall not be occupied until a scheme which satisfies the requirements set out in the Council's adopted Low Emission Strategy Guidance for Developers (April 2014) has been submitted to and approved in writing by the Local Planning Authority and implemented in full accordance with the approved details. The approved scheme shall be retained and maintained as such 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; and

(14) the dwelling(s) hereby permitted must meet a water efficiency standard of 110 litres per person per day, including five litres per person per day for external water usage. **Reason:** To ensure the creation of well-designed and sustainable buildings and to satisfy the requirements of Policy FW3 of the Warwick District Local Plan 2011-2029.

### **116. W/17/1946 – 5 Fairfax Close, Barford**

The Committee considered an application from Ms Coope for the erection of a single storey side extension, single storey front porch extension, pitched roof over the existing garage and the installation of cladding to the front elevation.

The application was presented to Committee because of the number of objections received including one from Barford Parish Council.

The officer was of the opinion that the proposed extensions were not considered to result in material harm to the living conditions of the occupiers of neighbouring properties; were not considered to harm the Conservation Area; were in accordance with the design guidelines set out in Barford's Design Statement 2009 and would not affect the current parking situation and would allow for two off-street parking spaces in accordance with the Council's Vehicle Parking Standards SPD.

## **PLANNING COMMITTEE MINUTES (Continued)**

The following people addressed the Committee:

- Councillor Clay, representing Barford Parish Council, which objected to the application;
- Mr & Mrs Spoor, residents of Fairfax Close, speaking against the application; and
- Councillor Phillips, Ward Councillor, also speaking against the application.

A motion to refuse permission was defeated. The Council's Legal Advisor advised Members that they had to have clear convincing reasons to decide to vote against the recommendations in the report.

Following consideration of the report, presentation, and the representations made at the meeting, it was proposed by Councillor Edgington and seconded by Councillor Day that the application should be granted.

The Committee therefore

**Resolved** that W/17/1946 be **granted** in accordance with the recommendations in the report, subject to the following 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 3561-01J, and specification contained therein, submitted on 21/11/2017. **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; and
- (3) the bricks and roof tiles for the development hereby permitted shall be of the same type, texture and colour as those of the existing building. **Reason:** To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy BE1 of the Warwick District Local Plan 2011-2029.

### **117. W/17/1534 – Bakers Barn, Bakers Lane, Knowle**

The Committee considered an application from Mrs Smith for a change of use of the existing stable building to a holiday let.

The application was presented to Committee because an objection had been received from XX Parish Council.

## **PLANNING COMMITTEE MINUTES (Continued)**

The officer was of the opinion that the principle of development was considered acceptable having regard to the applicable policies. There would be no material harm caused to the character of the wider area, the amenity of neighbouring properties or the highway network. Suitable planning conditions shaped the development and therefore, it was considered to represent a sustainable form of development overall. For these reasons, it was recommended that planning permission be granted.

An addendum circulated at the meeting advised that an additional condition was proposed requiring that prior to the first occupation of the development, two sheds at the site were removed and the land on which they were located was returned to its previous condition in order to prevent encroachment into the open countryside.

Mrs Benson and Mr Heynes both addressed the Committee in opposition to the proposals.

Following consideration of the report, presentation, information contained in the addendum and the representations made at the meeting, it was proposed by Councillor Mrs Stevens and seconded by Councillor Gifford that the application should be granted.

The Committee therefore

**Resolved** that W/17/1534 be **granted** in accordance with the recommendations in the report and addendum, subject to the following 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) 3638-2-1 REV C and 3638-401 and specification contained therein, submitted on 13th October 2017 and 17th August 2017. **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) other than site clearance and preparation works no works shall commence on the construction of the development hereby permitted until samples of the external facing materials to be used have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. **Reason:**
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## PLANNING COMMITTEE MINUTES (Continued)

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 occupied until a scheme which satisfies the requirements set out in the Council's adopted Low Emission Strategy Guidance for Developers (April 2014) has been submitted to and approved in writing by the Local Planning Authority and implemented in full accordance with the approved details. The approved scheme shall be retained and maintained as such 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;
- (5) the development hereby approved shall only be used for holiday accommodation purposes and not for any other residential use falling within Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or any Statutory Instrument revoking and re-enacting that Order with or without modification. For the avoidance of doubt 'any other residential use' includes a person's or persons' main residence, or a permanent residential unit of accommodation. **Reason:** To ensure that the holiday let unit is not used for permanent residential occupation which, given the open countryside location would represent an unsustainable form of development in accordance with Policy H1 of the Warwick District Local Plan 2011-2029;
- (6) the area shown as amenity land on plan number 3638 - 201 Rev C in a darker green shade shall be retained as amenity land in perpetuity. **Reason:** To ensure that the development does not encroach on the open countryside to an unacceptable extent in accordance with Policy DS18 of the Warwick District Local Plan 2011-2029; and
- (7) prior to the first occupation of the development, two sheds at the site were removed and the land on which they were located was returned to its previous condition in order to prevent encroachment into the open countryside.

## **PLANNING COMMITTEE MINUTES (Continued)**

### **118. W/17/1114 – 135 Chessetts Wood Road, Lapworth**

The Committee considered a resubmission of application W/16/2109 from Mr Smith for the demolition of the existing residential dwelling and associated outbuildings for a new detached dwelling house.

The application was presented to Committee because of the number of objections received including an objection from Lapworth Parish Council.

The officer was of the opinion that the proposed development would provide a replacement dwelling which consolidated the built form on this site within the Green Belt. Very special circumstances had been presented which were considered to be sufficient to outweigh any harm to the openness of the Green Belt. The proposed dwelling responded well to its surroundings in design terms and would not have a detrimental impact on the wider area.

The following people addressed the Committee:

- Mr Cobb, a chartered town surveyor representing a local resident who lived in Chessetts Wood Road and who objected to the application; and
- Ms Parkes, also a chartered town surveyor, representing the applicant.

Following consideration of the report, presentation, and the representations made at the meeting, it was proposed by Councillor Mrs Bunker and seconded by Councillor Day that the application should be granted but with an additional condition for the removal of Permitted Development Rights to extend the property. This would mean that if a planning application would be necessary to increase the size of the building further.

The Committee therefore

**Resolved** that W/17/1114 be **granted** in accordance with the recommendations in the report, subject to the following 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 amended drawings 280D and 281C, and specification contained therein, submitted on 7th November 2017. **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;

## **PLANNING COMMITTEE MINUTES (Continued)**

- (3) other than site clearance and preparation works no works shall commence on the construction of the development hereby permitted until samples of the external facing materials to be used have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. **Reason:** To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the locality in accordance with Policy BE1 of the Warwick District Local Plan 2011 – 2026;
- (4) prior to the occupation of the development hereby permitted, the first floor side windows in the northern elevation and the first floor window to the southern elevation serving the ensuite bathroom 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 unless the parts of the window that can be opened are more than 1.7 metres above the floor of the room in which the window is installed. The obscured glazed window(s) 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; and
- (5) Permitted Development Rights to extend the property are removed.

### **119. W/17/1470 – Land at Leamington Shopping Park, Tachbrook Park Drive, Warwick**

The Committee considered an application from Standard Life Investments UK Real Estate for the demolition of former garden centre structures and erection of three Class A1 retail units, provision of associated service yard and plant areas, reconfiguration and enlargement of parking areas, provision of trolley bay storage shelters and associated landscaping.

The application was presented to Committee because five or more letters of support had been received and the application was recommended for refusal.

The officer was of the opinion that the proposals did not satisfy the sequential or impact 'tests' set out in the NPPF and Local Plan Policy TC2 and would have caused unacceptable harm to the vitality and viability of town centres within the District. Furthermore the applicant had failed to submit sufficient information to demonstrate that the proposals would not have had unacceptable impacts in terms of increased traffic congestion,

## **PLANNING COMMITTEE MINUTES (Continued)**

insufficient parking, insufficient servicing space and subsequent harm to highway safety. Therefore it was recommended that planning permission should be refused.

An addendum circulated at the meeting advised that no further information had been submitted in relation to highways matters and therefore the response from the Highways Authority remained one of objection.

Five further comments in support had been received, citing factors in support of the proposals.

Three objections had been received, raising the concerns in respect of the proposals.

Officers advised the Committee that an undertaking had been given that if the application was granted, the Marks & Spencer store on Parade, in Royal Leamington Spa would be kept open for a further two years. No such undertaking had been given for the Warwick store. They were also advised to consider the application on its planning merits, and not place heavy emphasis that M&S would have a store at the shopping centre because M&S could subsequently leave. Members were reminded that protecting the town centres was a key planning policy.

The following people addressed the Committee:

- Councillor Murphy, Warwick Town Councillor, speaking against the application; and
- Mr Waldren, speaking in support of the application.

Following consideration of the report, presentation, information contained in the addendum and the representations made at the meeting, it was proposed by Councillor Day and seconded by Councillor Edgington that the application should be refused.

The Committee therefore

**Resolved** that W/17/1470 be **refused** in accordance with the recommendations in the report, for the following reasons:

- (1) Policy TC2 of the Warwick District Local Plan sets out a sequential approach to the location of new retail development, with a preference for town centre and then edge of centre locations. Evidence of the impact on the retail area of the town centre is required where the proposal is above 500 sq. m. This accords with the sequential and impact test in the NPPF.

The application site is situated in an out-of-centre location. There are sequentially preferable sites within Leamington and Kenilworth Town Centres that are available and suitable for the development proposed.

Therefore the proposals fail the sequential test.



## **PLANNING COMMITTEE MINUTES (Continued)**

In terms of impact, the proposals would harm shopper, retailer, developer and investor confidence in nearby town centres. Therefore the proposals also fail the impact test and would cause unacceptable harm to the vitality and viability of nearby town centres.

The proposals are therefore considered to be contrary to the aforementioned policies; and

- (2) Policy TR1 of the Warwick District Local Plan 2011-2029 states (amongst other requirements) that development proposals will be expected to demonstrate that they are not detrimental to highway safety. Meanwhile Policy TR2 states that large-scale developments that result in the generation of significant traffic movements should be supported by a Transport Assessment, and where necessary a Travel Plan, to demonstrate the practical and effective measures to be taken to avoid the adverse impacts of traffic. Finally Policy TR3 states that development will only be permitted that makes provision for parking which, amongst other requirements, has regard to the location and accessibility of the site by means other than the private car and does not result in on-street parking detrimental to highway safety.

The Highway Authority has objected to the application on a number of grounds. This includes concerns about the methodology and modelling used in the Transport Assessment as well as concerns about the space available for turning within the service area. As a result, it has been concluded that the applicant has failed to submit sufficient information to demonstrate that the proposals would not have unacceptable impacts in terms of increased traffic congestion, insufficient parking, insufficient servicing space and subsequent harm to highway safety.

The development is thereby considered to be contrary to the aforementioned policies.

The meeting was adjourned by the Chairman at 8.05pm for 15 minutes.

### **120. W/17/1829 – 41 The Fairways, Royal Leamington Spa**

The Committee considered an application from Mr Virk for the erection of a single storey rear extension, a two storey side and rear extension, a loft conversion including the erection of front and rear dormers, a garage

## **PLANNING COMMITTEE MINUTES (Continued)**

conversion and the erection of pitched rooves over the garage and front entrance; the application of render and timber cladding to the existing elevations. This was a resubmission of application W/17/0044.

The application was presented to Committee because of the number of objections received.

The officer was of the opinion that the application should be granted for reasons set out in the report.

An addendum circulated at the meeting advised that seven further objections had been received from six neighbours who had already objected and also from one new objector, reiterating points already made previously. A new issue had been raised about the effect of the proposed dormer windows in the Conservation Area.

A statement had been received from the applicant in support of their application had been sent directly to Committee Members that day.

The following people addressed the Committee:

- Miss Buckley, who lived in The Fairways and was speaking on behalf of all the residents that had made objections to the application; and
- Councillor Gifford, Ward Councillor, speaking in opposition the application.

The Head of Development Services confirmed that the application site did not fall within the Conservation Area, and whilst the Council did not encourage the installation of box dormer windows, they could be installed under permitted development rights within certain restrictions.

Following consideration of the report, presentation, information contained in the addendum and the representations made at the meeting, it was proposed by Councillor Edgington and seconded by Councillor Day that the application should be granted.

The Committee therefore

**Resolved** that W/17/1829 be **granted** in accordance with the recommendations in the report, subject to the following 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); and
- (2) the development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawings '1770-01', '1770-03', 'Existing Ground Floor Plan and Existing First Floor Plan' and 'Existing South East Elevation...Existing North East Elevation'

## **PLANNING COMMITTEE MINUTES (Continued)**

submitted on 3rd October 2017 and '1771-04A' submitted on 23rd November 2017, and specification contained therein. **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.

### **121. W/17/1830 – Priors Club, Tower Street, Royal Leamington Spa**

The Committee considered an application from Mr Dhesi for the demolition of the existing social club and the erection of a three storey building to include three HMO cluster flats to create 19 bedrooms for occupation as student accommodation.

The application was presented to Committee because of the number of objections received, including one from Royal Leamington Spa Town Council.

The officer was of the opinion that the proposed residential development would be acceptable in principle and the proposals would not result in a harmful over-concentration of student accommodation in this locality to justify a refusal of planning permission. Furthermore, the proposals would provide a satisfactory living environment for future occupants and would preserve the character and appearance of the conservation area. Finally the proposals were considered to be acceptable in terms of car parking, highway safety and in terms of the protection of bats. Therefore it was recommended that planning permission was granted.

An addendum circulated at the meeting advised that four further objections had been received raising concerns about the concentration of student accommodation in the locality similar to the issues summarised in the main report to the Committee. They also cited appeal decisions elsewhere in the country where Inspectors had supported refusals on these grounds. Further concerns were raised in relation to crime and the impact on air quality.

Warwickshire County Councillor, Councillor Chilvers had also objected on the grounds that the proposals contravened Policy H6. He contended that there was no valid reason for an exception because this was not a main thoroughfare.

The following people addressed the Committee:

- Councillor Morrison, representing Royal Leamington Spa Town Council which objected to the application; and
- Councillor Quinney, District Councillor, speaking on behalf of Ward Councillor Naimo and the residents who objected to the application.

Following consideration of the report, presentation, information contained in the addendum and the representations made at the meeting, it was proposed by Councillor Gifford and seconded by Councillor Weed that the application should be refused.

The Committee therefore

## **PLANNING COMMITTEE MINUTES (Continued)**

**Resolved** that W/17/1830 be **refused** contrary to the recommendations in the report, because it conflicts with Policy H6 of the Warwick District Local Plan 2011-2029 in terms of percentage because of the impact on the character of the area.

### **122. W/15/0851 – Land at Grove Farm, Harbury Lane, Bishop’s Tachbrook**

The Committee considered an application for a variation of a Section 106 Agreement in relation to the early transfer of land for a Country Parks, sustainable urban drainage system (SUDs) and Open Space. Planning Permission W/15/0851 was granted on 20 August 2015 and was subject to a Section 106 Agreement which imposed a range of obligations on the developer.

The officer was of the opinion that the provision of a country park on land to the south of a number of allocated residential sites to the south of Leamington Spa was a key strategic element of the Local Plan and within that context the proposal to bring land forward early to facilitate that was to be welcomed, as was the proposal to make the required financial infrastructure contributions at an early stage.

With regard to the early transfer of the SUDs, open space and play area land; there was a theoretical risk that following that transfer, the developer may not layout the open space and SUDs to the requirements of the Council as intended.

To ensure that this was not the case, the Agreement would continue to require the developer to do so, and to facilitate that, was proposed to be revised provide for the granting of a licence for the relevant parties to enter the land in question (which the Council would then own) to undertake the works.

Further it was proposed that the Agreement would also be varied to ensure that, in the circumstances where it was necessary, the developer would grant a licence to the Council to enter any adjacent land (which was in the developer’s ownership) to enable those works to be undertaken.

Finally, it was also proposed that the Agreement be varied to require the payment of a bond by the developer in order that in the circumstances that the works were not undertaken to the Council’s satisfaction, the Council was able to do so by default.

Following consideration of the report, presentation, it was proposed by Councillor Day and seconded by Councillor Mrs Bunker that the variation of the Section 106 Agreement was authorised.

The Committee therefore

**Resolved** that in respect of W/15/0851, the variation of the Section 106 Agreement is authorised as necessary to:

## **PLANNING COMMITTEE MINUTES (Continued)**

- (1) facilitate the early payment of all financial contributions including the payment of commuted sums for maintenance;
- (2) facilitate the early transfer of the land for a country park; SUDs; open space and play area schemes;
- (3) enable access to land for the purpose of facilitating the implementation of SUDs; open space and play area schemes; and
- (4) provide for the payment of a bond to enable any works to be undertaken in default.

### **123. W/17/1612 – Woodside Farm, Harbury Lane, Bishop's Tachbrook**

This application was withdrawn from the agenda.

### **124. W/17/1631 – Land to the North and South of the A45 (between Festival and Tollbar Junctions) and land at the A45/Festival Roundabout, and A46/Tollbar Roundabout and at junctions of A444 with the A4414/Whitley Roundabout, Coventry**

The Committee considered an application from Jaguar Land Rover for the variation of conditions 5, 6, 7 & 28 of planning permission no. W16/0239 to provide for changes to the approved parameters plan, revised timings for the submission of the master plan and design code and an additional access onto Rowley Road. Planning permission no. W16/0239 was for a comprehensive development comprising offices, research and development facilities and light industrial uses (Use Class B1), hotel accommodation (Use Class C1), car showroom accommodation and small scale retail and catering establishments (Use Classes A1, A3, A4 and/or A5).

The application was presented to Committee because it was recommended that planning permission is granted subject to the completion of a legal agreement and because an objection had been received from Baginton Parish Council.

The officer was of the opinion that the proposals would generate significant economic benefits. The proposed amendments would have an acceptable impact on the setting of the Lunt Fort Scheduled Ancient Monument and on the character and appearance of the area. Furthermore, the proposals would have an acceptable impact in relation to highway safety and would not generate additional traffic through Baginton village. Finally, it was considered appropriate for the masterplan and design code to be submitted with individual reserved matters applications. Therefore it was recommended that planning permission was granted for the variation of these conditions.

The conditions detailed in the report had been reproduced from the original grant of planning permission and therefore referred to policies included in the previous Local Plan. However, subject to the decision of the Committee and prior to any decision notice being issued, those references would be updated to refer to policies in the new Local Plan.

## **PLANNING COMMITTEE MINUTES (Continued)**

An addendum circulated at the meeting advised that Baginton Parish Council had submitted a further objection raising the following concerns:

- the proposals were completely at odds with the scheme that was granted outline permission, being far more visually intrusive;
- noise pollution from the mechanical and electrical plant;
- air pollution;
- no plans to prevent traffic through the village;
- there were no plans to build infrastructure before the development was due to start, leading to further traffic through the village;
- the Highway Authority was yet to agree to the proposals;
- the countryside park and landscaped bund should be in place before construction began;
- the Environmental Impact Assessment was no longer valid due to the changes in the scheme;
- contrary to the Neighbourhood Plan; and
- section 106 agreements seemed to constantly change at the whim of the developers.

The addendum also advised that Warwickshire County Council had no objection to the application, subject to conditions.

Officers also advised Members that following on from the publication of the addendum, a further objection had been received from Bubbenhall Parish Council, a copy of which had been sent via email to all Members of the Committee ahead of the meeting. The parish council was opposed to the proposed variation to the parameters plan to allow for increased height to the buildings on the western end of the Whitley south site, and for an additional access to the site from Rowley Road.

Following consideration of the report, presentation and information contained in the addendum, it was proposed by Councillor Day and seconded by Councillor Gifford that the application should be granted.

The Committee therefore

**Resolved** that W/17/1631 be **granted** in accordance with the recommendations in the report, and subject to conditions, listed below, and subject to the completion of a satisfactory section 106 agreement. Should a satisfactory Section 106 Agreement not have been completed by 14 December 2017, authority is delegated 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.

Conditions:

- (1) details of the following reserved matters for each phase of the development shall be submitted to and approved in writing by the local planning authority before any part of that phase of the development (other than

## **PLANNING COMMITTEE MINUTES (Continued)**

demolition or ground works) is commenced:-

- i) the layout of the phase and its relationship with existing adjoining development;
- ii) the scale of the buildings;
- iii) the appearance of the buildings; and
- iv) the landscaping of the site.

**Reason:** To comply with Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015;

- (2) application for approval of the matters referred to in Condition 1 above must be made within 5 years of the date of this permission. **Reason:** To comply with Section 92 of the Town & Country Planning Act 1990 (as amended);

- (3) the development to which this permission relates shall begin within 5 years of the date of permission or within 2 years of the final approval of the reserved matters, whichever is the later. **Reason:** To comply with Section 92 of the Town & Country Planning Act 1990 (as amended);

- (4) prior to the commencement of development, details regarding the phasing of the development shall be submitted to and approved in writing by the local planning authority and such details shall include:

- i) a plan(s) showing the boundaries of each phase, the extent and use of building development in each phase, the phasing of works within the proposed Countryside Park and arrangements in respect of the phasing of all transportation infrastructure;
- ii) temporary access arrangements for vehicles and pedestrians in respect of each phase;
- iii) car parking arrangements in respect of each phase;
- iv) any interim surface, boundary treatment, external lighting or landscaping measures;
- v) a report to demonstrate that the phasing proposals do not affect the conclusions of the noise and air quality assessments included in the Environmental Statement (including supplementary noise and air quality assessments and details of

## PLANNING COMMITTEE MINUTES (Continued)

- further mitigation measures, if necessary); and
- vi) a temporary drainage strategy in respect of each phase.

Once approved the development of each phase shall be carried out in full accordance with such approved details or any subsequent amendments so approved. **Reason:** To ensure that in the event of the development being carried out on a phased basis, satisfactory access and interim environmental treatment is incorporated within each phase, in the interests of public safety and visual amenity in accordance with Policies DP1, DP7 and DP8 of the Warwick District Local Plan 1996-2011;

- (5) in respect of the Reserved Matters to be submitted in accordance with Condition 1, the building ridge heights and footprints and the overall Gross Internal Area of all building floor space shall be within the minimum and maximum limits set down in approved Parameters Plan drawing no. P16-0062-3E. **Reason:** To define the permission in the interests of urban design and highway safety and capacity in accordance with Policies DP1 and DP7 of the Warwick District Local Plan 1996-2011;

- (6) any Reserved Matters application shall, where relevant to that phase of development:

- i) Demonstrate that the proposals accord with the approved Parameters Plan drawing no. P16-0062-3E and the principles set down in the Design & Access Statement Addendum forming part of the approved application documentation;
- ii) Define principles regarding building design, materials, elevational detailing and public realm hard/soft landscaping;
- iii) Identify those trees to be retained or removed as part of the development and the number and location of new trees to be provided as compensation;
- iv) Identify locations for public art features;
- v) Show the location of each pond;
- vi) Include design principles in respect of layout, scale, appearance and landscaping aimed at minimising its visual impact on the Lunt Roman Fort;
- vii) Contain details on how permeability will



## PLANNING COMMITTEE MINUTES (Continued)

- be achieved in respect of the network of estate roads within the technology campus;
- viii) Detail principles on how legibility will be achieved within the technology campus including design principles in respect of the new A45 bridge and land to the immediate south of it comprising the gateway into the development.
- ix) Include landscape design principles for the technology campus aimed at ensuring that soft landscaping within this area is satisfactorily integrated with the Countryside Park and neighbouring land.
- x) Contain principles in respect of disabled access throughout the development and to/from buildings.
- xi) Detail principles on how crime prevention matters will be addressed in respect of the development.

Any subsequent Reserved Matters applications shall accord with the approved Master Plan and Design Code. **Reason:** In the interests of urban design in accordance with Policies DP1, DP14, DP15 and SC15 of the Warwick District Local Plan 1996-2011;

- (7) the reserved matters to be submitted in accordance with Condition 1 for each phase shall include details of all earthworks, mounding and the finished floor levels of all buildings and structures, together with details of existing and proposed site levels in that phase and the relationship with adjacent land and buildings and such details shall accord with approved Parameters Plan drawing no. P16-0062-3E forming part of the approved application documentation. **Reason:** In the interests of urban design, to ensure that the mounds are in keeping with surrounding landscape and to ensure that the proposals do not harm the living conditions of nearby dwellings, in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011;
- (8) the reserved matters to be submitted in accordance with Condition 1 for each phase shall include sample details of facing, roofing and hard surfacing materials for that phase, such details to include information on the recycled/reclaimed content of such materials.

## PLANNING COMMITTEE MINUTES (Continued)

Thereafter the development shall be constructed in full accordance with such approved details or any amendment of these subsequently approved in writing by the local planning authority. **Reason:** In the interests of urban design in accordance with Policy DP1 of the Warwick District Local Plan 1996-2011;

- (9) the gross floor space of any unit the primary use of which falls within Class B1(a) of the Town & Country Planning (Use Classes) Order 1987 as amended erected under this permission shall not exceed 4999 square metres. **Reason:** To ensure that the development does not prejudice the provision of large scale office accommodation in town centres in accordance with Policy UAP2 of the Warwick District Local Plan;
- (10) no building approved under this permission used primarily for purposes falling within Class A1 of the Town & Country Planning (Use Classes) Order 1987 as amended (or in any Order revoking and re-enacting that Order) shall exceed 250 square metres gross internal floor area. **Reason:** To safeguard the shopping strategies of the local planning authorities and to accord with Government Guidance in the NPPF which seeks to direct large scale retailing to Town Centre locations;
- (11) no car showroom floor space or floor space falling within Classes A1, A3, A4, A5 or C1 of the Town & Country Planning (Use Classes) Order 1987 as amended shall be occupied unless and until at least 8,500 square metres (GFA) of floor space falling within Use Class B1 of the said Order has been occupied within the technology campus. **Reason:** To ensure that the car showroom and other floor space falling within Use Classes A1, A3, A4, A5 and C1 is only provided when it is needed to serve the employment uses which primarily comprise the development approved under this permission in accordance with Policy UAP3 of the Warwick District Local Plan 1996-2011;
- (12) No more than 10% of the total B1 floor space shall be occupied for purposes falling within Class B1a of the Town & Country Planning (Use Classes) Order 1987 as amended. **Reason:** To enable the A46 and A45 Trunk Roads to continue to be an effective part of the national system of routes for through traffic, in

## PLANNING COMMITTEE MINUTES (Continued)

accordance with Section 10(2) of the Highways Act 1980 and to protect the interest of road safety and to ensure that the development is primarily a technology campus in accordance with the identified need;

- (13) the first 8,500 square metres (GFA) of floor space within the development shall be occupied by Jaguar Land Rover. No other buildings shall be occupied within the development until Jaguar Land Rover has fully occupied 8,500 square metres of B1 floor space within the technology campus. **Reason:** Since the particular requirements of Jaguar Land Rover form part of the very special circumstances for permitting this inappropriate development within the Green Belt, in accordance with the NPPF;
- (14) any soft landscaping referred to in Condition 1 in respect of each phase shall be completed in all respects within 6 months of the substantial completion of development in that phase. Any such landscaping removed, dying or becoming seriously damaged, defective or diseased within 5 years from the substantial completion of development in that phase shall be replaced within the next planting season with landscaping of a similar size and species to that which they replace. Any replacement hedging, trees or shrubs 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 visual amenity in accordance with Policy DP1 of the Warwick District Local Plan 1996-2011;
- (15) no demolition or construction works shall commence in any phase (including any ground remodelling works), until a Tree Protection Plan, Arboricultural Method Statement and Arboricultural Implications Assessment in respect of those trees earmarked for retention under Condition 6 above have been submitted to and approved in writing by the local planning authority. Thereafter, all demolition and construction works (including any ground remodelling works) in that phase shall be undertaken in strict accordance with the approved Tree Protection Plan, Arboricultural Method Statement and Arboricultural

## **PLANNING COMMITTEE MINUTES (Continued)**

Implications Assessment. **Reason:** To safeguard those trees to be retained in accordance with Policy DP3 of the Warwick District Local Plan 1996-2011;

- (16) the existing trees, shrubs and hedges indicated under Condition 6 to be retained shall not be cut down, grubbed out, topped, lopped or uprooted without the written consent of the local planning authority. Any trees, shrubs or hedges removed without such consent or dying, or being severely damaged or diseased or becoming, in the opinion of the local planning authority, seriously damaged or defective, within five years from the substantial completion of development shall be replaced, as soon as practicable with tree(s), hedge(s) or shrub(s) of such size and species as have been approved in writing by the local planning authority. All tree(s), hedge(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 (excluding hard surfaces). **Reason:** To protect those trees and shrubs which are of significant amenity value and which ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policy DP3 of the Warwick District Local Plan 1996-2011;

- (17) the construction of buildings and mounds within the technology campus shall be phased in strict accordance with the construction phasing plan (drawing no. 3924-1/004 P4). **Reason:** To ensure that the mounds provide screening for the development at the earliest opportunity, in accordance with Policy DP1 of the Warwick District Local Plan 1996-2011;

- (18) prior to commencement of site works including demolition, a detailed soil management plan, conforming to the *Defra Code of Practice for the Sustainable Use of Soils on Construction Sites (2009)*, will be submitted for approval by the local planning authority. The plan will detail proposals for soil stripping, movement, storage, and spreading and will also identify soil remediation works where required. All earthworks shall be carried out in strict accordance with the approved details. **Reason:** To ensure the sustainable management of the site's soil resource and to

## **PLANNING COMMITTEE MINUTES (Continued)**

ensure that earthworks will provide the best opportunities for successful establishment and sustenance of landscape infrastructure and ecological services throughout the scheme, in accordance with Policies DP1 and DP3 of the Warwick District Local Plan 1996-2011;

(19) the development hereby permitted shall not exceed 70,683 square metres (GFA). Such development shall not exceed the following thresholds in respect of the specified uses as defined in the Town & Country Planning (Use Classes) Order 1987 as amended:

- 56,766 square metres (GFA) of B1 floor space;
- 4,645 square metres (GFA) of car showroom floor space;
- 11,617 square metres (GFA) of hotel floor space; and
- 2,300 square metres (GFA) of A1, A3, A4 and A5 floor space.

**Reason:** To enable the A46 and A45 Trunk Roads to continue to be an effective part of the national system of routes for through traffic, in accordance with Section 10(2) of the Highways Act 1980 and to protect the interest of road safety;

(20) no development shall take place other than site preparation and earthworks until a scheme of traffic impact mitigation at the A46/A45/A444 Stivichall interchange, which shall comprise at least the following works, has been submitted to and approved in writing by the local planning authority:

- Signalisation of the on slip approach from the A444 to A45;
- Signalisation of the off slip west bound from the A45 and removal of segregated left turn lane;
- Realignment of traffic lanes on the circulatory carriageway;
- Realignment of kerbs on the approaches/circulatory carriageway.

The mitigation scheme shall be informed by an assessment of the traffic impacts at this junction and its associated interaction with the A46A45(T) with the scope of this assessment to have been first agreed in writing by the local planning authority. The mitigation scheme approved under this condition shall be

## PLANNING COMMITTEE MINUTES (Continued)

implemented in strict accordance with the approved details. **Reason:** To enable the A46 and A45 Trunk Roads to continue to be an effective part of the national system of routes for through traffic, in accordance with Section 10(2) of the Highways Act 1980 and to protect the interest of road safety;

(21) no development shall take place other than site preparation and earthworks until the following details have first been submitted to and approved in writing by the local planning authority:

- i) Full details of how the site access provisions generally as illustrated on the General Arrangement Drawing 15-0752-100 Rev 1 will align with Highways England's A45 Tollbar End Improvement scheme;
- ii) Full details of the proposed alterations to the A46 / Stoneleigh Road / Dalehouse Lane junction generally as illustrated on drawing number 15-0752-110;
- iii) Full details, of the proposed new A45 Grade Separated Junction as generally illustrated on General Arrangement Drawing Number 15-0752-100 Rev 1; and
- iv) Full details, of the proposed alterations to the A46 / A45 / A444 Stivichall Interchange.

The details to be submitted under this condition shall include:

- How the development scheme interfaces with the A45 / A46 trunk roads highway alignment, including full details as indicated within the design check list contained within HD19/15 of the Design Manual for Roads and Bridges (DMRB).
- Confirmation of full compliance with the current Design Manual for Roads and Bridges (DMRB), Interim Advice Notes (IANs), Traffic Sign Manual (TSM), Manual of Contract Documents for Highway Works (MCHW) and associated British Standards and Eurocodes and Department for Transport Policies, Local Transport Notes (LTNs), Traffic Advisory Leaflets (TALs) and Advice Notes and any necessary relaxations / departures from standards approved by the

## PLANNING COMMITTEE MINUTES (Continued)

Highways Authority for the Strategic Road Network.

- Independent Stages One and Two Road Safety Audits carried out in accordance with the current Design Manual for Roads and Bridges (DMRB) and related Interim Advice Notes (IANs) prior to construction. A Stage three RSA will be required prior to opening.
- Design stage Non-Motorised User Audit carried out in accordance with the current Design Manual for Roads and Bridges (DMRB) standard and related Interim Advice Notes (IANs).

To enable the A46 and A45 Trunk Roads to continue to be an effective part of the national system of routes for through traffic, in accordance with Section 10(2) of the Highways Act 1980 and to protect the interest of road safety.

Prior to the commencement of development, detailed design of the amendments to the existing cycleway along the northern edge of the A45 Stonebridge Highway shall be submitted to and approved in writing by the local planning authority. The design shall include details of the downgrading of the cycleway to a footway at the access to Stonebridge Meadows Local Nature Reserve (the SINC) and an appropriate signage strategy. The development shall be carried out in strict accordance with the details approved under this condition. **Reason:** To enable the A46 and A45 Trunk Roads to continue to be an effective part of the national system of routes for through traffic, in accordance with Section 10(2) of the Highways Act 1980 and to protect the interest of road safety;

- (22) prior to the commencement of development, other than site preparation and earthworks, detailed design of the amendments to the existing cycleway along the northern edge of the A45 Stonebridge Highway shall be submitted to and approved in writing by the local planning authority. The design shall include details of the downgrading of the cycleway to a footway at the access to Stonebridge Meadows Local Nature Reserve (the SINC) and an appropriate signage strategy. The development shall be carried out in strict accordance with the details approved

## PLANNING COMMITTEE MINUTES (Continued)

under this condition. **Reason:** To enable the A46 and A45 Trunk Roads to continue to be an effective part of the national system of routes for through traffic, in accordance with Section 10(2) of the Highways Act 1980 and to protect the interest of road safety;

- (23) prior to the commencement of drainage works, details of the drainage strategy for the development site and highway works affecting the Strategic Road Network shall be submitted to and approved by the local planning authority. The drainage strategy shall ensure there is no connection (direct or indirect) to the trunk road drainage system. The drainage strategy shall thereafter be implemented in strict accordance with the approved details.

**Reason:** To enable the A46 and A45 Trunk Roads to continue to be an effective part of the national system of routes for through traffic, in accordance with Section 10(2) of the Highways Act 1980 and to protect the interest of road safety;

- (24) no development shall commence other than site preparation and earthworks until full details of the site access provisions, in general accordance with drawing nos. THDA SK12 Rev C, THDA 15-0752 101 Rev 1 & THDA 15-0752 102 Rev 1, have been submitted to and approved in writing by the local planning authority. Thereafter the approved highway access works will be implemented in strict accordance with the approved plans and permanently retained thereafter. **Reason:** In the interests of highway safety in accordance with Policies DP6 and DP7 of the Warwick District Local Plan 1996-2011;

- (25) no development shall commence, other than site preparation and earthworks, until a scheme of mitigation for the A46/Stoneleigh Road/Dalehouse Lane Interchange, in general accordance with drawing no. THDA 15-0752 110, has been submitted to and approved in writing by the local planning authority. Thereafter the mitigation scheme shall be implemented in strict accordance with the approved details and permanently retained thereafter. **Reason:** In the interests of highway safety in accordance with Policies DP6 and DP7 of the Warwick District Local Plan 1996-2011;



## PLANNING COMMITTEE MINUTES (Continued)

- (26) no construction shall commence in each phase until a Construction Management Plan for that phase has been submitted to and approved in writing by the local planning authority. This shall include a Construction Phasing Plan, HGV routing Plan, details of provision for HGV access and manoeuvring on site and details of employee car parking provision. The development shall be carried out in strict accordance with the Construction Management Plan approved under this condition. **Reason:** In the interests of highway safety in accordance with Policies DP6 and DP7 of the Warwick District Local Plan 1996-2011;
- (27) access to and departure from the development site by construction delivery vehicles shall not be permitted between 0730 hours and 0900 hours or between 1630 hours and 1800 hours. **Reason:** In the interests of highway safety in accordance with Policies DP6 and DP7 of the Warwick District Local Plan 1996-2011;
- (28) no development shall commence other than site preparation and earthworks until details of the proposed accesses onto Rowley Road, in general accordance with drawing no. THDA 15-0752 106 and PHP Architects Illustrative Development Plan 3924-1 002 rev P8, have been submitted to and approved in writing by the local planning authority. Thereafter the approved highway access works will be implemented in accordance with the approved plans and permanently retained thereafter. **Reason:** In the interests of highway safety in accordance with Policies DP6 and DP7 of the Warwick District Local Plan 1996-2011;
- (29) no construction shall commence on site until a detailed Highway Improvement Works Phasing Plan and Construction Sequence Programme/Timetable, linked to the extent of built floor space, and generally in accordance with Lawrence Walker Ltd Site Access Proposed Improvements Phasing Figure 2 Rev P27 and PHP Architects Construction Phasing Plan Including Highways and Earthworks 3924-1 004 rev P3 has been submitted to and approved in writing by the local planning authority. Thereafter the phasing of development shall be undertaken in full accordance with these approved details. **Reason:** In the interests of highway safety in accordance with Policies DP6 and DP7 of the

## PLANNING COMMITTEE MINUTES (Continued)

Warwick District Local Plan 1996-2011;

(30) no more than 46,450 square metres (GFA) of development falling within Use Class B1 of the Town & Country Planning (Use Classes) Order 1987 as amended shall be brought into use and occupied until the Phase 2 site access highway works as illustrated on Lawrence Walker Ltd Site Access Proposed Improvements Phasing Figure 2 Rev P27 have been constructed in general accordance with the detailed highways drawings in respect of such phase 2 works forming part of the approved application documentation and is opened to traffic. **Reason:** In the interests of highway safety in accordance with Policies DP6 and DP7 of the Warwick District Local Plan 1996-2011;

(31) the construction of any highway structure as identified on TH:DA Drawing No. 15-0752 140 (Structures Location Plan) shall be undertaken only in full accordance with details, which shall include an approval in principle report, which have previously been submitted to and approved in writing by the local planning authority. **Reason:** In the interests of highway safety in accordance with Policies DP6 and DP7 of the Warwick District Local Plan 1996-2011;

(32) no highway works approved as part of the development shall be undertaken unless and until:

- i) a Stage 1 and 2 Safety Audit (incorporating associated designers responses); and
- ii) the details of any relaxations or departures from the highway standards utilised by the relevant Highway Authority at that time;

in respect of those highway works, have been submitted to and approved in writing by the local planning authority. **Reason:** In the interests of highway safety in accordance with Policy DP6 of the Warwick District Local Plan 1996-2011;

(33) street lighting shall be provided in respect of each phase of the development hereby permitted which involves the construction of highways, footpaths or cycleways in full

## **PLANNING COMMITTEE MINUTES (Continued)**

accordance with details previously submitted to and approved in writing by the local planning authority. **Reason:** In the interests of highway, pedestrian and cyclist safety in accordance with Policies DP6 and SC4 of the Warwick District Local Plan 1996-2011;

- (34) at all times following the completion and opening to traffic of the phase 3 highway works in respect of the new A45 junction between the Festival and Toll Bar Islands, as illustrated on Lawrence Walker Ltd Drawing no. Figure 2 Rev P27 (Site Access Proposed Improvements Phasing) signage, traffic signal or other traffic management arrangements shall be in place on Rowley Road in accordance with details previously submitted to and approved in writing by the local planning authority to discourage vehicles exiting the development from utilising the roundabout element of the completed Highways Agency Tollbar End Improvement Scheme in order to access the strategic highway network.

**Reason:** In the interests of promoting the free flow of traffic in accordance with Policy DP6 of the Warwick District Local Plan 1996-2011;

- (35) no building within the development hereby permitted shall be occupied unless and until the following transportation infrastructure has been provided in respect of that building in accordance with Reserved Matters details submitted to and approved in writing by the local planning authority:

- i) Motor vehicle, pedestrian and cyclist access to that building from the boundary of the application site;
- ii) All the car parking approved for that building which shall include disabled car parking comprising at least 2% of the total number of car parking spaces provided for that building plus 6 further spaces;
- iii) Covered cycle and motorcycle parking; and
- iv) Servicing arrangements in respect of that building.

Thereafter such transportation infrastructure shall remain in place and available for such use at all times. **Reason:** In the interests of highway, pedestrian and cyclist safety and to promote sustainable transport choices in

## PLANNING COMMITTEE MINUTES (Continued)

accordance Policies DP6, DP8 and SC4 of the Warwick District Local Plan 1996-2011;

- (36) the number of car parking spaces to be provided within the application site in respect of the development hereby permitted shall not exceed 2,500, of which a maximum of 500 shall be allocated for visitors and no more than 2,000 for the employees of the development. Provided the above limits are not exceeded, car parking shall be provided in accordance with the standards for low accessibility zones set out in the Council Vehicle Parking Standards Supplementary Planning Document.

**Reason:** In the interests of highway safety and the promotion of sustainable transport choices in accordance with Policies DP6, DP7 and DP8 of the Warwick District Local Plan 1996-2011;

- (37) prior to any part of the development being brought into use and occupied a detailed Car Parking Management Strategy for the control, management and enforcement of on-site (development plot) parking and of off-site (access and distributor road) parking shall be submitted to and approved in writing by the local planning authority. Thereafter car parking associated with the development shall be managed in full accordance with this approved Strategy. **Reason:** In the interests of highway safety and the promotion of sustainable transport choices in accordance with Policies DP6, DP7 and DP8 of the Warwick District Local Plan 1996-2011;

- (38) the reserved matters to be submitted in accordance with Condition 1 in respect of any single unit exceeding 1000 square metres (GFA) shall be accompanied by details of showering and changing facilities for employees working in or visiting that unit. Thereafter such approved facilities shall be provided in the construction of that unit and at all times following the first occupation of that unit those facilities shall remain in place and be available for use by persons employed in that unit. **Reason:** To promote sustainable transport choices in accordance with Policy SC4 of the Warwick District Local Plan 1996-2011;

- (39) no development other than site preparation and earthworks shall take place until a surface water drainage scheme for the site, based on

## PLANNING COMMITTEE MINUTES (Continued)

sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 1 in 100 plus 20% critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:

- i) Full drainage calculations for a range of events (Microdrainage windes or similar)
- ii) Construction details for the ponds/swales
- iii) Details of how the scheme will be maintained and managed after completion.

**Reason:** To prevent the increased risk of flooding both on and off site, to ensure the features are constructed to the necessary standard and to ensure long term maintenance of the sustainable drainage scheme in accordance with Policy DP9 of the Warwick District Local Plan 1996-2011;

- (40) the development hereby permitted (other than site preparation and earthworks) shall not be commenced until such time as a scheme to provide details of the proposed bridges and bridge extensions has been submitted to, and approved in writing by, the local planning authority. The scheme shall include construction details, details of bridge openings and details of any floodplain compensatory works. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing and phasing arrangements in the scheme, or any alternative arrangements as may subsequently be agreed, in writing, by the local planning authority. **Reason:** To ensure the bridges and bridge extensions are constructed to a satisfactory standard and will not increase flood risk elsewhere in accordance with Policy DP9 of the Warwick District Local Plan 1996-2011;

- (41) the development hereby permitted shall be carried out in strict accordance with the approved Flood Risk Assessment (dated

## PLANNING COMMITTEE MINUTES (Continued)

15/01/16, ref: WHI-BWB-EWE-XX-RP-EN-0001\_FRA Rev C, prepared by BWB Consulting) and the following mitigation measures detailed within the Flood Risk Assessment:

- Finished floor levels to be set no lower than 600mm above the 1 in 100 year +20% flood level and at least 150mm above average surrounding ground level as recommended in Table 5.1.
- Provision of floodplain compensation for the new River Sowe bridge on a 'level for level' and 'volume for volume' basis as shown in Appendix F to provide a minimum volume of compensation of 7,199m<sup>3</sup>.
- Provision of floodplain compensation for the proposed A46 slip road crossing on a 'level for level' and 'volume for volume' basis as shown in Appendix F to provide a minimum volume of compensation of 2,263m<sup>3</sup>.

**Reason:** To ensure runoff from the site is not increased, satisfactory storage is provided and water quality benefits are included in accordance with Policy DP9 of the Warwick District Local Plan 1996-2011;

(42) notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any order revoking and re-enacting that Order with or without modification, no structure shall be erected within Flood Zone 3 or the bridge and embankment floodplain compensation areas as delineated on drawing ref: WHI-BWB-EWE-XX-SK-EN-0010, S2, rev P1 (Masterplan showing Flood Zones). **Reason:** To ensure the bridges and bridge extensions will not increase flood risk elsewhere in accordance with Policy DP9 of the Warwick District Local Plan 1996-2011;

(43) The reserved matters submitted under Condition 1 above in respect of any phase of the development shall include details for the disposal of foul sewage associated with any development in that phase. Thereafter infrastructure for the disposal of foul sewage in respect of that phase of the development shall be provided in accordance with the approved details before the development in that phase is first brought into use. **Reason:** To ensure that the development is provided with a satisfactory

## PLANNING COMMITTEE MINUTES (Continued)

means of foul sewage drainage in accordance with Policy DP11 of the Warwick District Local Plan 1996-2011;

(44) no development shall take place until a scheme for the provision and management of compensatory habitat creation, to compensate for the impact of the proposed development on the River Sowe, has been submitted to and agreed in writing by the local planning authority. This should include an investigation into the feasibility of river bank and floodplain restoration. Thereafter the development shall be implemented in accordance with the approved scheme. **Reason:** To ensure that harm resulting from the development can be adequately mitigated in accordance with Paragraph 118 of the NPPF;

(45) For the duration of highway construction works on Rowley Road and thereafter at all times following the completion of those highway works access for the Midland Air Museum to and from Rowley Road shall be maintained in accordance with details submitted to and approved in writing by the local planning authority. **Reason:** To safeguard this cultural facility;

(46) the development hereby permitted shall not be commenced on the site occupied by Trinity Guild RFC unless and until:

- i) the Trinity Guild RFC have moved to a new site and playing pitch, clubhouse and car parking facilities together with vehicle and pedestrian access to those facilities have been provided for the club on that site which are at least equivalent in terms of quantity and quality to those which the club currently have on their existing site in accordance with details submitted to and approved in writing by the local planning authority in consultation with Sport England and;
- ii) those playing pitch, clubhouse and car parking facilities together with vehicle and pedestrian access to those facilities on that new site are available for use by the club.

**Reason:** To ensure the satisfactory quantity, quality and accessibility of compensatory provision which secures continuity of use and to accord with the NPPF;

- (47) no development shall take place on any phase of the development hereby permitted until arrangements have been made to secure the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority. The development shall be carried out in accordance with the programme so approved or any amended programme subsequently 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 where applicable, before development commences in accordance with Policy DP4 of the Warwick District Local Plan 1996-2011;

- (48) no part of the development hereby permitted shall be occupied until:

- i) details of measures to prevent illegal road racing or other anti-social or dangerous use of the roads within the development have been submitted to and approved in writing by the local planning authority; and
- ii) the measures approved under i) have been implemented in strict accordance with the approved details in relation to that part.

**Reason:** To minimise the potential for crime and anti-social behaviour and improve community safety, in accordance with Policy DP14 of the Warwick District Local Plan;

- (49) no part of the development hereby permitted shall be occupied until ANPR cameras have been provided in accordance with a scheme submitted to and approved in writing by the local planning authority. The ANPR equipment shall comply with the ACPO ANPR standards and with the information security requirements of Warwickshire Police. Warwickshire Police shall be provided with access to the live feeds from the ANPR cameras at all times thereafter.

**Reason:** To minimise the potential for crime and anti-social behaviour and improve community safety, in accordance with Policy DP14 of the Warwick District Local Plan 1996-



## PLANNING COMMITTEE MINUTES (Continued)

2011;

(50) fume extraction and odour control equipment (including external ducting flues) associated with any catering operation shall be properly installed in its entirety in accordance with details first submitted to and approved in writing by the local planning authority and such installation shall have been inspected by the local planning authority before that catering operation commences. Any external ducting shall be colour coated in accordance with the approved details within one month of its installation and any replacement or modification shall be colour coated to match within one month of its installation. The equipment shall be permanently operated and maintained in accordance with the manufacturer's specifications. **Reason:** In the interests of amenity in accordance with Policy DP9 of the Warwick District Local Plan 1996-2011;

(51) noise arising from any plant or equipment within the application site, when measured one metre from the façade of any residential property, 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 DP2 & DP9 of the Warwick District Local Plan 1996-2011;

(52) none of the buildings hereby permitted shall be first occupied until:

- i) a report detailing noise mitigation measures for the development (including noise calculations) has been submitted to and approved in writing by the District Planning Authority; and
- ii) the noise mitigation measures approved under (i) have been implemented in strict accordance with the approved details.

## **PLANNING COMMITTEE MINUTES (Continued)**

The approved noise mitigation measures shall be maintained in a manner that achieves the noise attenuation specified in the report approved under (i) at all times thereafter.

**Reason:** To protect the amenities of the occupiers of nearby properties in the locality in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011;

- (53) the Construction Management Plan to be submitted under Condition 26 above shall also include detail in respect of those matters set out in Sections 4, 5 & 6 of the Construction Sequence and Programme report forming part of the approved application documentation and shall include details of measures to control dust and noise from construction activities.

**Reason:** In the interests of highway safety and to protect the living conditions of nearby properties, in accordance with Policies DP2, DP6, DP7 and DP9 of the Warwick District Local Plan 1996-2011;

- (54) no development shall take place on any phase of development until a Low Emission Strategy for that phase has been submitted to and approved in writing by the local planning authority. The Low Emission Strategy shall thereafter 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 DP9 of the Warwick District Local Plan;

- (55) no development shall take place on any phase of the development until:

- i) a preliminary risk assessment has been carried out (to include the identification of previous site uses, potential contaminants that might reasonably be expected given those uses and other relevant information) and, using this information, a diagrammatical representation (conceptual model) for the site of all potential contaminant sources, pathways and receptors has been produced;
- ii) a site investigation has been undertaken in accordance with details approved by the local planning authority using the information obtained from the preliminary risk assessment;

## PLANNING COMMITTEE MINUTES (Continued)

- iii) a method statement detailing the remediation requirements (including measures to minimise the impact on ground and surface waters using the information obtained from the site investigation) has been submitted to and approved in writing by the local planning authority. The method statement shall include details of how the remediation works will be validated upon completion.

No remediation should be undertaken before the method statement has been so approved. The approved remediation requirements shall thereafter be implemented in full and all development of the site shall accord with the approved method statement. **Reason:** To protect controlled waters and the health and safety of future occupiers, and to satisfy the requirements of Policy DP9 of the Warwick District Local Plan 1996-2011;

- (56) if, during development, contamination not previously identified is found to be present at the site then no further development shall take place until an addendum to the remediation method statement has been submitted to and approved in writing by the local planning authority. The addendum to the method statement shall detail how this unsuspected contamination will be dealt with. The remediation requirements in the approved addendum to the method statement shall thereafter be implemented. **Reason:** To protect controlled waters and the health and safety of future occupiers, and to satisfy the requirements of Policy DP9 of the Warwick District Local Plan 1996-2011;

- (57) no phase of the development shall be first occupied until a verification report demonstrating completion of the works set out in the approved remediation method statement and the effectiveness of the remediation has been submitted to and approved in writing by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. The report shall also include a plan (a "long-term monitoring and maintenance plan") for long-term monitoring of pollutant linkages, maintenance and arrangements for

## **PLANNING COMMITTEE MINUTES (Continued)**

contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented in strict accordance with the approved details.

**Reason:** To protect controlled waters and the health and safety of future occupiers, and to satisfy the requirements of Policy DP9 of the Warwick District Local Plan 1996-2011;

(58) no recycled aggregate shall be imported to any part of the application site to be used in the construction of the development hereby permitted until:

- i) a scheme of validation sampling has been submitted to and approved in writing by the local planning authority; and
- ii) the recycled aggregate has been sampled in accordance with the scheme approved under i) and the results of the sampling have been submitted to and approved in writing by the local planning authority.

**Reason:** To protect controlled waters and the health and safety of future occupiers, and to satisfy the requirements of Policy DP9 of the Warwick District Local Plan 1996-2011;

(59) no infiltration of surface water drainage into the ground shall be permitted other than with the express written consent of the local planning authority. This consent will only be granted 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 controlled waters and to satisfy the requirements of Policy DP9 of the Warwick District Local Plan 1996-2011;

(60) construction work shall not begin on any phase of the development hereby permitted until a scheme for the provision of adequate water supplies and fire hydrants, necessary for firefighting purposes at the site, has been submitted to and approved in writing by the District Planning Authority. No part of any phase of the development shall be occupied until the approved scheme has been implemented to the satisfaction of the District Planning Authority for that phase of the development. **Reason:** In the interests of fire

## **PLANNING COMMITTEE MINUTES (Continued)**

safety in accordance with Policy DP1 of the Warwick District Local Plan 1996-2011;

(61) no development shall commence on any phase of the development hereby permitted, other than site preparation and earthworks, until a lighting scheme for that phase of the development, excluding street lighting, has been submitted to and approved in writing by the local planning authority. No lighting shall be installed other than in strict accordance with the approved lighting schemes. **Reason:** To protect the amenities of the occupiers of nearby properties in the locality and the rural character of the area, in accordance with Policies DP2, DP3 & DP9 of the Warwick District Local Plan 1996-2011; and

(62) no work shall commence on any of the buildings permitted under this outline planning permission and any subsequent reserved matters approval 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 CO<sup>2</sup> 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 building shall be first occupied until all the works within this scheme in respect of that building have been completed and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturer's specifications. Microgeneration equipment no longer needed for microgeneration shall be removed as soon as reasonably practicable. **Reason:** To ensure that adequate provision is made for the generation of energy from renewable energy resources in accordance with the provisions of Policy DP13 in the Warwick District Local Plan 1996-2011.

### **125. W/17/1729 – Land to the North and South of the A45 (between Festival and Tollbar Junctions) and land at the A45/Festival Roundabout, and A46/Tollbar Roundabout and at junctions of A444 with the A4414/Whitley Roundabout**

The Committee considered an application from Jaguar Land Rover for the approval of reserved matters in relation to appearance, landscaping, layout and scale under outline planning permission no. W16/0239 for Phase 1A of

## **PLANNING COMMITTEE MINUTES (Continued)**

the approved development comprising two buildings for Class B1(b) research and development use totalling 19,225 square metres GFA floor space plus 696 square metres GFA floor space of ancillary energy centre, substations and pump room; provision of 1,031 associated car parking spaces and associated soft and hard landscaping..

The application was presented to Committee because of the number of objections received, including an objection from Baginton Parish Council.

The officer was of the opinion that the proposals would generate significant economic benefits. Furthermore the scheme would have an acceptable impact on the setting of the Lunt Fort Scheduled Ancient Monument and on the character and appearance of the area. In addition, the proposals were considered acceptable in relation to car parking and highway safety and would not generate additional traffic through Baginton village. Therefore it was recommended that the reserved matters application was approved..

An addendum circulated at the meeting advised that a revised landscaping plan had been submitted to address the concerns of Warwickshire County Council Landscape, following receipt of which, the County Council advised that it did not object. County Highways also advised that it had no objections to the proposals, subject to conditions.

Baginton Parish Council had sent a further objection raising the following concerns:

- the proposals were completely at odds with the scheme that was granted outline permission, being far more visually intrusive;
- noise pollution from the mechanical and electrical plant;
- air pollution;
- no plans to prevent traffic through village;
- there were no plans to build infrastructure before the development was due to start, leading to further traffic through the village;
- the Highway Authority was yet to agree to the proposals;
- the countryside park and landscaped bund should be in place before construction began;
- the Environmental Impact Assessment was no longer valid due to the changes in the scheme;
- contrary to the Neighbourhood Plan; and
- section 106 agreements seemed to constantly change at the whim of the developers.

Following consideration of the report, presentation and information contained in the addendum, it was proposed by Councillor Mrs Bunker and seconded by Councillor Gifford that the application should be approved.

The Committee therefore

**Resolved** that reserved matters application W/17/1729 be **approved** in accordance with the recommendations in the report, subject to the following conditions:

- (1) the development hereby permitted shall be carried out strictly in accordance with the  
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## **PLANNING COMMITTEE MINUTES (Continued)**

details shown on the site location plan and approved drawing(s) JLRTP-CRL-SW-XX-AR-AR-0003A-P02, JLRTP-CRL-AA-00-DR-AR-1200A-P01, JLRTP-CRL-AA-01-DR-AR-1200A-P01, JLRTP-CRL-AA-02-DR-AR-1200A-P01, JLRTP-CRL-AA-RP-DR-AR-1200A-P01, JLRTP-CRL-10-RL-DRG-A-1341A, JLRTP-CRL-10-ZZ-DRG-A-2000, JLRTP-CRL-BB-00-DR-AR-2000A-P01, JLRTP-CRL-BB-01-DR-AR-2000A-P01, JLRTP-CRL-BB-02-DR-AR-2000A-P01, JLRTP-CRL-BB-RP-DR-AR-2000A-P01, JLRTP-CRL-SW-ZZ-DR-AR-3000A, JLRTP-CRL-AA-ZZ-DR-AR-4000, JLRTP-CRL-BB-ZZ-DR-AR-4000, JLRTP-CRL-BB-ZZ-DR-AR-4001, JLRTP-IJLA-SW-ZZ-DR-LA-10103-P02, the Jaguar Land Rover Technology Park Phase 1A Indicative Plant Schedule, and the Design Statement ref. P16-0062, and specification contained therein, submitted on 15 September 2017, 23 November 2017 & 24 November 2017.

**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; and

- (2) unless otherwise agreed in writing by the local planning authority and in consultation with Highways England, there will be no permanent or temporary structures erected, or other measures of control implemented, that are capable of obstructing vehicular access in to the site. For the avoidance of doubt, this would include the provision of gates, barriers or other physical or non-physical obstructions. There shall be no impediments to the free flow of traffic into the site. **Reason:** To maintain the safe and efficient flow of traffic into the site, in accordance with Policy TR1 of the Warwick District Local Plan.

### **126. W/17/1752 – 32 Hamilton Terrace, Royal Leamington Spa**

The Committee considered an application from Mrs Reynolds for a change of use from office (B1) to non-residential institution (D1).

The application was presented to Committee because the application site was owned by the District Council.

The officer was of the opinion that the principle of development, on balance, was considered to be acceptable, having regard to all of the supporting information advanced by the applicant and assessment of the relevant and material considerations. It was not considered that the development would result in any visual harm to the character of the area or the street scene and the absence of any physical works proposed to the building means that there would be no harm to the significance of the

## **PLANNING COMMITTEE MINUTES (Continued)**

designated heritage assets, namely the Grade II listed building and the Royal Leamington Spa Conservation Area. There would be no harm caused to the amenity of neighbouring buildings and/or other land uses and there was sufficient parking provision for the use proposed. For these reasons it was recommended that planning permission be approved.

Following consideration of the report, presentation and information contained in the addendum, it was proposed by Councillor Mrs Bunker and seconded by Councillor Weed that the application should be granted.

The Committee therefore

**Resolved** that W/17/1752 be **granted** in accordance with the recommendations in the report, subject to the following 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 titles 'Basement', 'Ground Floor', 'First Floor', 'Second Floor' and 1:250 Parking Plan and specification contained therein, submitted on 20 September 2017. **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; and
- (3) the premises shall be used only as the specified training/education facility within Use Class D1 and for no other purpose within Use Class D1. **Reason:** In the interests of visual and neighbouring amenity as well as highway safety in accordance with Policies BE1, BE3 and TR1 of the Warwick District Local Plan 2011-2031.

### **127. W/17/1823 – 56 Lower Cape, The Cape, Warwick**

This application was withdrawn from the agenda.

### **128. Planning Appeals Report**

Members received a report from officers outlining the existing enforcement matters and appeals currently taking place.

**Resolved** that the report be noted.



**PLANNING COMMITTEE MINUTES (Continued)**

(The meeting ended at 9.47pm)

CHAIR  
9 January 2018

**Planning Committee:** 09 January 2018

**Item Number: 5**

**Application No:** [W 17 / 1614](#)

**Town/Parish Council:** Leamington Spa  
**Case Officer:** Lucy Hammond

**Registration Date:** 25/09/17  
**Expiry Date:** 25/12/17

01926 456534 [lucy.hammond@warwickdc.gov.uk](mailto:lucy.hammond@warwickdc.gov.uk)

**19-21 Wise Street, Leamington Spa, CV31 3AP**

Demolition of the existing scrapyards & commercial unit and erection of a four-storey building and basement, comprising residential student accommodation with associated amenity facility, parking and landscaping (amended scheme following the withdrawal of application no. W17/0118) FOR Mr & Mrs McGee

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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, subject to the conditions listed at the end of this report and a Section 106 Agreement to secure the provision and implementation of a Green Travel Plan and Management Plan along with financial contributions in relation to improvements to open space and the canal towpath.

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 proposal make inadequate provision in respect of the issues the subject of that agreement.

**DETAILS OF THE DEVELOPMENT**

Planning permission is sought for the demolition of the existing scrapyards and adjacent buildings and the construction of a new building, four storeys in height plus a basement, that would provide purpose built student accommodation which is primarily intended as a non-parking scheme.

The building would provide a self-contained student residential development comprising 200 bed spaces with en-suite facilities split into apartments, studio apartments and penthouses totalling 48 units (or 'cluster flats'). A communal kitchen, dining and living area is proposed within each apartment which would essentially be self-contained and dependent on no other part of the building for occupiers to be able to live. The largest flat would have eight bedrooms, each with their own self-contained shared kitchen and dining facilities in the same way as the smaller flats, and part of the development also includes studio flats.

The proposal also includes an amenity facility building. This would be detached from the main residential block and would be positioned in the north eastern corner of the site. This would be a two storey building, with the entrance foyer and toilet downstairs (with parking spaces on either side) with access to the first

floor leading to shared community space that residents can use for a number of different purposes.

The building has been designed to optimally maximise the unusual and constrained shape and layout of the site and would provide the longest continual elevation fronting onto the Grand Union Canal on the south side. The Wise Street fronting elevation has been designed to architecturally reflect the existing residential character of Wise Street, while the canal-side fronting elevation echoes more of an industrial appearance, reflecting the historical origins of canal fronting development. Facing Wise Terrace, the end elevation of the building contains inset balconies on both corners as well as an inset roof level, with large expanses of glazing to provide as much architectural interest and visual breaks in the continuity of the building.

The building has been designed to incorporate mostly parking and amenity space on the lower ground floor. A total of 33 parking spaces are proposed, intended only for particular students who satisfy relevant circumstances and who purchase an annual permit and these would be spread across the lower ground floor between some residential accommodation which is proposed at either end of the site. Other facilities located on the lower ground floor at the western end of the site include the security/warden's office, reception area, central hub amenity facility and a plant room. The rest of the residential accommodation is proposed over the first, second and third floors with a roof top level which would be inset from the rest of the building.

The submitted Design and Access Statement sets out that a contemporary design approach has been taken to the development, using predominantly facing brickwork facade and full length windows, reminiscent of an industrial warehouse aesthetic. A lightweight room in the roof construction is set back from the main external structure, providing the opportunity for roof terraced gardens to penthouses and studio apartments and reducing the scale of the development.

The Design and Access Statement also sets out that native species planting would be introduced to the back of the towpath to reinforce the wildlife corridor along the Grand Union Canal towpath. Red facing brickwork matches similar development which reflects approaches adopted during the Regency period and creates a canal side warehouse style, with communal dining; kitchens and living rooms with external glazed balconies overlook the Canal to reinforce the life on the Canal towpath.

To Wise Street, the elevation has been designed with a residential philosophy incorporating casement windows. All doors and windows are to be dark grey polyester powder coated aluminium. Lastly, to ensure the proposals do not impose or are overbearing to adjacent properties it is intended to retain the existing ground level difference of approximately 1.2m below the Grand Union Canal towpath. This maintains the already established ridge height to adjacent residential apartments to the south west of the site.

The submitted Management Plan document which seeks to control and manage the development in the long term, addresses the following matters:-

- The daytime and out of hours management of the development.
- The conditions and details of the Tenancy Agreement in order to ensure that occupants of the building are managed appropriately.

- The control and management of car use within and around the site.
- The management of behaviour, particularly with regard to evening curfews and any incidents of noise, disturbance or anti-social behaviour which may ultimately result in the expulsion of residents who break the rules of their tenancy agreement.
- Refuse, repairs and provisions about health and safety, and
- Engagement and liaison with residents associations, neighbours and local residents.

## **THE SITE AND ITS LOCATION**

The application site extends to approximately 0.27ha and is located to the south of Wise Street. The majority of the site is a scrap metal yard called 'Mercia Metals' which has occupied this site for some twenty years. The site comprises areas of hardstanding and tarmac together with a two storey office building with an adjacent industrial building which has a single storey section and a taller building with a large open door for plant to enter. It is used for scrap metal and processing. The remaining eastern part of the site is currently used by Simclick Floors, a bathroom and kitchen floor specialist trade supplier.

The majority of Wise Street and Wise Terrace (to the west of the site) have been regenerated from commercial to residential uses. Wise Street is predominantly in residential use with the exception of the existing scrap yard and a substation to the north of the site. Vehicle access to the site is gained to the north, off High Street, which leads into Wise Street which is a no-through road.

The Grand Union Canal and towpath adjoin the southern boundary of the site, Simclick Floors is a small retail/industrial unit to the east and residential/student accommodation is predominantly situated to the north-west (Wise Terrace) and north-east.

The site is close to the town centre of Leamington Spa, being within reasonable walking distance from the shops, services and other facilities. The town centre is approximately 650m away to the north, while the rail station is approximately 250m away to the north west. The site is also within 90m of bus stops located on the High Street where the Stagecoach bus services U1, U2, NU2 and X17 provide frequent services every day to the University of Warwick campus, with a travel time of approximately 40 minutes.

## **PLANNING HISTORY**

There are a number of previous schemes noted within the planning history for the site, but it is noted these were mostly withdrawn before validation and therefore never reached the stage of being assessed by officers.

## **RELEVANT POLICIES**

- National Planning Policy Framework

### The Current Local Plan

- DS5 - Presumption in Favour of Sustainable Development (Warwick District Local Plan 2011-2029)

- DS17 - Supporting Canalside Regeneration and Enhancement (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)
- H0 - 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)
- TR2 - Traffic generation (Warwick 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)
- 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)
- FW1 - Development in Areas at Risk of Flooding (Warwick District Local Plan 2011-2029)
- FW2 - Sustainable Urban Drainage (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)
- NE4 - Landscape (Warwick District Local Plan 2011-2029)
- NE5 - Protection of Natural Resources (Warwick District Local Plan 2011-2029)
- NE7 - Use of Waterways (Warwick District Local Plan 2011-2029)
- DM1 - Infrastructure Contributions (Warwick District Local Plan 2011-2029)

#### Guidance Documents

- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Vehicle Parking Standards (Supplementary Planning Document)
- Open Space (Supplementary Planning Document - June 2009)
- LES - Low Emission Strategy Guidance for Developers (April 2014)

### **SUMMARY OF REPRESENTATIONS**

**Royal Leamington Spa Town Council:** Objection for the following reasons:

- This application, if granted, breaches Policy H6 considerably at 31.7%.
- Adding this large HMO in this location will inevitably impact negatively on local amenity.
- There is an increasing imbalance in the make-up of the local population in this area and the effects of ever increasing student numbers in HMO's here (e.g. noise, waste, ASB and empty properties during the summer) are causing the living conditions of the rest of the community to be affected deleteriously.

- This should not be allowed to continue without check.

**Councillor Naimo:** Objection for the following reasons:

- The development is contrary to Policy H6
- The Task & Finish Group who looked at HMO's earlier in the year made a number of recommendations supported by Executive in June. Two recommendations in particular highlight a number of areas that should be fully considered in the context of this application;
- There is potential harm caused by over concentration of student accommodation including increase in traffic, on street parking, noise and waste issues
- Comments have been made by the Waste Management team about insufficient bin storage for this development; this needs to be addressed at design stage or it would be a failing of this development
- The development makes repeated mention of the 'Alumno' development but there are already failings in how that is being delivered, in particular in respect of refuse and car parking
- Policy H6 should cease to be the starting point for determining applications and should instead be applied fully in the way it was intended (ref. made to the development at 4a Wise Terrace)
- The over concentration of HMO's far exceeds the H6 policy of 10%; it is over 30%
- The site does not meet the exceptions set out in the policy; it is a predominantly residential area and not in a mixed use nor is it a main thoroughfare
- The Task & Finish Group support purpose built student accommodation (PBSAs) in principle, but these should be distributed across suitable district locations, not clustered together
- It has not yet been proven that PBSAs are taking the pressure of HMO conversions in Leamington and applications for these are still coming forward even within the Article 4 Direction area
- While the site is close to bus stops no account has been made of the capacity of the buses that service the area; an extra 200 students trying to catch buses at the same time would put pressure on an already over stretched service
- South Leamington Councillors receive regular complaints about the capacity of university buses, a further 200 students would apply additional pressure
- For students attending Warwick University the site's proximity to the train station is irrelevant since there is no station at the University campus
- There is already a parking problem in this part of South Leamington. Whether students are allowed to bring cars to the development or not there will be an increase in vehicles in this area
- The close proximity to the train station means that streets with unrestricted parking are full to capacity and some areas have problems with access for refuse and emergency vehicles due to cars parking on both sides of the road
- The Vehicle Parking Standards SPD is out of date and no longer suitable for the purposes of determining an application of this scale in this location
- From an economic point of view the argument that this is development of a prime canal side site is not strong enough to outweigh the above concerns; it is still contrary to H6
- The Mercia Metals business is still operating, as is the Simclick Flooring business which would be displaced
- This is not a derelict site unlike the case of the Alumno development
- There are still outstanding concerns from Environmental Health and Highways

- The applicant has failed to properly consult with the community, still referencing 'consultation' that took place over a year ago with no updated information since then

**WCC Highways:** No objections subject to conditions, notes and the completion of a legal agreement in respect of the management plan

**Health and Community Protection (Environmental Sustainability):** No objections subject to conditions

**Lead Local Flood Authority:** No objections subject to condition

**Waste Management:** No objections; recommendation made for minimum number of bins

**WCC Ecology:** No objections subject to conditions and notes

**WCC Landscape:** No objections subject to condition

**Green Space Team:** No objections; recommendation for financial contribution

**Canal & River Trust:** No objections subject to condition/financial contribution

**Inland Waterways:** No objections

**Private Sector Housing:** No objections

**Police:** No objections

**CCTV:** No objections

**Conservation Advisory Forum:** The size and massing of the development is considered to be excessive and over-dominant. A more positive relationship is needed between the new development and the canal towpath, possibly including setting the building back to create public space fronting the canal and it is recommended that a public route be provided through the site to the canal.

### **Public Response:**

34 letters of objection received raising the following concerns:

- The development is contrary to Policy H6
- The number of HMO's (student accommodation) far exceeds 10%
- There is already an imbalance in local residents before this proposal goes ahead and this would lead to an over-intensification of student numbers
- The local area has a significant problem with fly-tipping, litter and car parking
- There would be insufficient car parking provision
- The development will increase pressure on already stressed transport services
- The development will lead to increased congestion and will be detrimental to highway safety
- The development will result in a disproportionately large building
- There will be harm caused to neighbouring amenity by reason of a loss of light, loss of privacy and loss of outlook to nearby properties
- This will lead to increased noise and anti-social behaviour
- The development is too large for the area

- The application fails to demonstrate that the proposal will not add to the potential for cumulative harm of HMOs in the area
- There is no significant evidence of material considerations to outweigh the harm
- The development is not compliant with the NPPF which requires Local Authorities to plan for a mix of housing
- This would lead to air quality problems and would exacerbate pollution in nearby streets
- There is no evidence that PBSA's will lead to the reversion of HMO's in town back to single dwellings
- This represents overdevelopment of the site
- Proposed parking management is not enforceable (reference made to the Alumno development where there is a similar problem)
- This is a predominantly residential area
- There are concerns regarding waste and recycling provision/collection details
- There is concern regarding the ability for emergency services vehicles to access/egress the site
- This development is too industrial for this canal-side location
- The development would result in the loss of a local business (Simclick Flooring)

Other non-material planning considerations were also raised. These are briefly summarised below:

- Reference is made to appeal decisions where PBSA's have been dismissed by the Inspector [Leeds and Durham]
- Further references made to other appeal decisions [Nottingham and Durham]
- There is no demonstrated need for student accommodation, here, or in the local area
- There is no undertaking from the University of Warwick to manage this facility
- Reference is made to parking problems at the Alumno development
- There is concern over the proximity of the site to a mobile phone mast
- The site would be better suited to affordable housing
- The site would be better developed for housing, including some affordable housing thereby providing a more balanced, mixed and sustainable community

While the above points represent genuine concerns from neighbouring properties and local residents, it is not for officers to question the need for such a development, or within the context of this proposal consider how the site could be better developed.

133 letters of support received for the following reasons:

- This would result in the redevelopment of a scrap yard
- The scrap yard is unsightly and unneighbourly
- Student accommodation is needed for the town centre
- This would be a visual improvement to the local area
- The scrapyard use should be outside the town centre
- There is a shortage of good quality student accommodation and this would help meet a need
- This would help regenerate the area
- PBSA would free up residential homes elsewhere
- This would be good for the local economy
- The scrapyard is noisy
- The current use attracts anti-social behaviour



- Redevelopment of this site could kick start the regeneration of the wider area
- The development will make environmental improvements and will decontaminate the site
- Surrounding buildings can then be used more actively
- Skip lorries associated with the current use of the site are a hazard to pedestrians
- The site is dilapidated and redevelopment should be welcomed
- This proposal would re-use previously developed land

1 neutral letter received raising the following point:

It is good to see the inclusion of air source heat pumps and photovoltaic panels in the proposals

## **ASSESSMENT**

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

- The principle of the development
- Regeneration of the site including the design and visual impacts on the character of the area
- Canal-side Benefits
- The removal of unneighbourly uses
- The management of the development (Management Plan)
- The impact on the character and appearance of the area
- Impact on neighbouring amenity
- Car parking and highway safety
- Contaminated land and environmental health
- Drainage and flood risk
- Ecological impact
- Open space contributions
- Health and wellbeing
- Bin storage
- Crime prevention
- Other matters

### **The Principle of the Development**

Strategically, Policy PC0 of the Warwick District Local Plan 2011-2029 sets out the Council's aim to promote sustainable economic development to support a vibrant and thriving economy to deliver the jobs the District needs during the plan period in line with certain principles. Amongst these principles and of particular relevance to this development proposal are:-

- Supporting more sustainable patterns of growth focusing development, where it can, on previously developed land in the most sustainable locations;
- Enabling thriving and vibrant town centres that fulfil a range of functions; and
- Supporting opportunities for regeneration.

Policy DS17 of the Local Plan states that the Council will prepare and adopt a Canal-side Development Plan Document (DPD) to assess the canals in the district and their environment and setting, identify areas for regeneration along urban sections and identify areas for protection (where appropriate).

While work is ongoing to prepare this DPD, it is important to recognise that the general thrust of this approach is to ensure that important canal-side sites are protected and enhanced through appropriate means. A key way in which to facilitate this would be through the regeneration of such sites; particularly those which are prominent and/or in an urban area where such regeneration would preserve and further enhance these valuable canal-side sites.

In accordance with paragraph 17 of the NPPF, encouragement should be given to the effective use of land by reusing land that has been previously developed providing that it is not of high environmental value.

Within that context this proposal for purpose built accommodation that seeks to make the best use of a prominent canal-side site, which is physically constrained to some extent by its unusual shape, is considered to be broadly acceptable in principle. This is however, also subject to the proposal's conformity with Policy H6 which relates to the provision of Houses in Multiple Occupation (HMO's). This is considered below.

#### Conformity with Policy H6

Policy H6 of the Local Plan advises that planning permission will only be granted for HMO's, including student accommodation, when a number of specified circumstances are satisfied. These are set out below:-

- The proportion of dwelling units in multiple occupation (including the proposal) within a 100m radius of the application site does not exceed 10% of total dwelling units;
  - a) The application site is within 400m walking distance of a bus stop;
  - b) The proposal does not result in a non-HMO dwelling being sandwiched between two HMO's;
  - c) The proposal does not lead to a continuous frontage of three or more HMO's; and
  - d) Adequate provision is made for the storage of refuse containers whereby –
    - e) The containers are not visible from an area accessible by the general public,
    - i. The containers can be moved to the collection point along an external route only.

This proposal would satisfy points (b) to (e) set out above but would not accord with (a) which relates to the concentration of HMO's within a 100m radius of the site.

The total number of existing HMO's within a 100m radius is 34 which gives a percentage of 16.1% of total dwelling units. The development proposes an additional 48 (cluster flats) which would increase the percentage in a 100m radius to 31.7%.

There are exceptions to Policy H6, which the policy sets out may be made, where the site is either on the University of Warwick's campus or a main thoroughfare in a mixed use area. The site in this instance meets neither of these exceptions and the proposal is therefore contrary to the provisions of Policy H6 such that in that respect there is an objection in principle to the proposal.

However, it is also necessary to consider whether there are any other material considerations, the benefits of which would outweigh the harm arising from that policy objection, which in this case might specifically arise from:-

- ii. The regeneration of the site
  - The benefits for the Canal-side environment
  - The removal of unneighbourly uses (e.g. the scrapyards)
  - The manner in which the development will be managed to minimise any impacts or loss of amenity within the surrounding area.

An assessment of these potential benefits is set out below.

### **The regeneration of the site and the character of the area**

The regeneration of this canal-side site, in itself is considered to result in considerable benefits to the character of the surrounding area particularly in visual terms arising from the loss of an unsightly commercial use and redevelopment with a building of high quality bespoke design which is appropriate within the surrounding area.

The design of the building in terms of the elevational treatments, materials and finishes has been amended through the life of the application and has, to some extent, been informed by earlier discussions that have taken place. The building is four storeys plus a lower ground floor which predominantly includes car and cycle parking, other services and some residential accommodation. The shape of the building is unusual and is designed to follow the natural shape and physical constraints of the site. This would provide a 90m canal-side frontage elevation which would have a depth of approximately 12m. There would be a return at either end, following the outline of the site boundaries, the deepest of which would be 15m (the other with a similar depth to the overall building at 11.5m).

The overall height of the building would be 14.2m. Levels 1, 2 and 3 would be constructed predominantly from facing red brick, while the roof level would be inset from all sides of the building and predominantly built from a mix of glazing and grey render/cladding, providing a more lightweight structure at the top of the building thus minimising any perception of the building appearing too tall or overbearing.

On the canal-side elevation, full height windows are proposed with recessed sections that assist in breaking up an otherwise long continual elevation. The use of balconies overlooking the canal, timber cladding, mixed coloured cladding and louvered panels at the windows all contribute to what is considered to be a varied and interesting elevation fronting the canal.

On the Wise Street elevation, a more traditional approach has been adopted that incorporates traditional casement windows, with less of a vertical emphasis, as well as more brick and less cladding. This is considered to reflect the existing residential character of Wise Street.

It is noted that the building would be taller and have a greater massing than the surrounding buildings in Wise Street, however as a canal side development it is considered important to introduce a robust physical presence. The design, whilst having modern features, would represent a significant improvement to the current site and is considered a benefit to the setting of the adjacent

Conservation Area and visual appearance of the streetscene generally. The proposal is not dissimilar to the scale of the building on the opposite side of the canal and furthermore echoes the scale and form of industrial development that would have historically been found along the canal-side frontages.

It should also be noted that the development has been designed such that the existing level difference between the canal towpath and the building's ground floor level would be further altered to reduce it to 1.2m below the towpath. This would maintain the already established ridge height to adjacent residential apartments to the south west of the site and would ensure the development remains visually appropriate in scale and form.

### **Canal-side Benefits**

At the time of considering this application, work has commenced on the designation of a canal-side Conservation Area within the District whilst Policy DS17 seeks to protect and enhance canal-side sites and developments.

In this context, relative to the current unsightly use of the site, the building relates positively to the canal frontage and the proposal sets up a strong reference to the canal as a perimeter to the block. It is scaled to be no higher than the ridge of the block on the opposite side of the canal and whilst the proposed building would have a clear presence within the surrounding area, it is considered to be consistent with the canal-side environment and wider area.

The design of the building has been driven by its canal-side location and subject to the careful consideration of material samples at a later date, the appearance of the building and its design will contribute positively to the surrounding area. Furthermore, it is noted that the design of the building and the choice of fenestration and materials has evolved and was further revised during the course of the first submission following discussions with the conservation officer at the time. The development is therefore considered to represent a significant visual improvement which will assist in the transformation of that character of the surrounding area.

### **The removal of unneighbourly uses**

The proposals involve the removal of the existing scrapyard from the site and its redevelopment with the proposed building. There are numerous letters expressing support for the removal of the noisy and unneighbourly scrapyard from the site and while it is noted that some of these letters have been sent by people who do not live in the immediate vicinity of the site, there are a number of letters expressing such support from residents of Wise Street and Wise Terrace which are the two streets closest to the site, largely in residential use.

Officers are of the view that the removal of the scrapyard from this site would present a number of benefits, not just in a visual sense, but also insofar as it would reduce the vehicle movements and, in particular, HGV movements to and from the site daily, as well as the noise, disturbance and other adverse impacts that result from a scrapyard being sited in the midst of residential properties.

## **The management of the development (Management Plan)**

A robust and detailed Management Plan has been submitted with the application which sets out explicitly how the development will be managed in the short and longer terms. The principle issues that it addresses are summarised below.

### Day time management

The document makes provisions for both day time management and out of hours management of the development. In respect of the former, the Management Plan states the development would be fully managed and have a dedicated team on site Monday - Friday between the hours of 09:00 and 17:00 and there would be a team comprising a Site Manager, Site Warden and cleaning and maintenance staff working with the Site Manager.

The Management Plan sets out precisely the nature of the duties the team will be responsible for carrying out on a daily and weekly basis, including, for example:

- Representing the main contact between management, students and the local community,
- Ensuring any complaints from local residents (or students) are dealt with promptly,
- Carrying out regular patrols of the development,
- Producing a weekly report detailing any matters which arise, including any community complaints which will be reported to the development operator.

The team would be supported by off-site management, responsible for the marketing of the development as well as dealing with any tenancy enforcement issues. The proposal includes a management office within the reception forming the hub for all student and visitor enquiries and would be manned from 09:00 to 17:00. Its position is well placed to monitor students entering and leaving the development.

### Out of hours management

The reception would include a 24/7 help desk connected to the Site Manager and their staff who would be available to attend out of hours calls, and would be responsible for assisting students who need advisory services and also for monitoring student behaviour. The intention would be to issue local residents with telephone numbers for the site management office and the 24 hour helpdesk so that there is always someone available to respond to any issues of concern to them immediately. The Management Plan states that all complaints from local residents will be handled seriously and investigated immediately.

### The Tenancy Agreement

Each student will sign a Tenancy Agreement which binds them to rules and codes of conduct during their stay at the development. Where there is any breach reported of the agreement, escalating levels of enforcement are proposed which would include deductions from their deposits, written and final warning and ultimately expulsion from the development. Examples of such breaches might include damage to the property, either internally or externally, incidents of noise,

disturbance, nuisance or disruption, breaking the curfew and breaching the strict parking requirements and restrictions.

#### Management of students moving in and out

This process will be managed over an extended period of time each academic year to ensure there is not an over concentration of people arriving at/leaving the site simultaneously. An example as to how this would work is by holding the moving in process over two weekends each academic year and staggering arrivals by advising each student of a date and time to take up occupancy of their room. If those times are not followed by students, the management company will reserve the right to refuse access.

#### Controlling car use

The student accommodation is to be marketed as a non parking residence. There are some exceptions that may be made to this for particular students who are eligible and/or pre-arrange to buy a parking space as part of their tenancy agreement. All residents would be issued with a parking guide as part of their purchase which would include their on-site parking permits and restrictions on use of the parking spaces.

It will be a condition of the tenancy that students are not able to bring their own cars, which will be routinely monitored by the management company. This is punishable by termination of the letting agreement. All residents will be aware of the limited amount of parking on site, which would only be bookable on a strictly term or annual basis and as such it is considered that the development would be unlikely to be particularly attractive to those for whom car parking is a necessary requirement.

All students will sign a declaration preventing them from using or parking a vehicle within the area stipulated on a plan appended to the Management Plan. This plan covers a 1 mile radius of the development. The management team will monitor and ensure students are complying with the parking declaration and it is envisaged this would be monitored through a number of means, all of which are explicitly set out within the Management Plan. Examples include:

- Noting vehicle registration numbers during drop off's and pick up's and recording this information against the associated student,
- Investigating any complaints or breaches of the parking declaration by monitoring the vehicle in question,
- Monitoring student activity by on site managers through regular patrols around the area.

#### Security, noise and antisocial behaviour

Security will be monitored through CCTV and an on-site presence throughout the night. Out of hours CCTV is to be monitored remotely.

The Management Plan includes a flow chart of what would typically happen in the event a neighbour or other local resident reported an incident of noise, disturbance or other anti-social behaviour. It is envisaged this would follow the same patterns of fines, warning and ultimately expulsion from the development.

## Other matters

The Management Plan deals also with refuse and repairs and concludes with a section regarding the neighbourhood and local community. In this final section, the Plan states that the Management Team will actively seek to engage with local tenants and residents associations and community organisations. Regular meetings will be held with local residents and other groups to discuss and address any issues.

The amenity areas within the development would be subject to a curfew at night which would be managed by the dedicated on site management team. CCTV cameras covering this area as well as around the perimeter of the building would increase surveillance of students in and around the development.

Officers are of the opinion that the submitted Management Plan is sufficiently detailed and robust to provide the necessary assurances in an open and transparent manner that the relevant management team will actively monitor and enforce the provisions set out therein. The submitted Management Plan would form a key part of any permission which may be forthcoming for this development and accordingly, it is appropriate to secure its content through the completion of a legal agreement.

### **Impact on neighbouring amenity**

The new building has been designed to optimally maximise the unusual and constrained shape and layout of the site. Moreover, its Wise Street fronting elevation has been designed to architecturally reflect the existing residential character of Wise Street. Accordingly, windows are smaller than those on the canal-side frontage and as such would keep overlooking to a minimum. The shape of the site, the way in which the proposed building will occupy it and the separation distances involved also minimise any opportunities for overlooking.

The elevation facing Wise Street/Wise Terrace and the nearest neighbouring building shows that this end of the building, albeit proposing five storeys of accommodation, is architecturally broken up, including inset balconies on both corners of the building and an inset roof floor all of which further reduces the perception of massing. Given this small scale element of built frontage (when compared to the overall scale of the building proposed) that would front Wise Street/Wise Terrace, officers are satisfied that the development would not result in demonstrable harm to the amenity of neighbouring properties by reason of overbearing, overshadowing or overlooking.

On the canal-side frontage, there is a separation of 20 metres between the canal-side facing elevations of the proposed and the existing building opposite. Whilst the design of the building is such that it does not offer traditional front, rear and side perspectives, it is considered to be comparable with 'front to front' relationships that are typically shared between buildings that line both sides of a road, where the carriageway and the footpaths, actively used on a regular basis, provide the intervening features that separate the buildings. Similarly, the canal, with its towpath on one side and a footpath and landscape buffer on the other provide the separation between these frontages here, which on balance is considered to be acceptable and would not give rise to significant and demonstrable harm to the amenity of neighbouring buildings.

Accordingly, the development is considered to comply with Policy BE3 of the Local Plan.

### **Car Parking and Highway Safety**

Submitted with this revised planning application was a Transport Statement (TS) which analysed the highway and transportation impacts of the proposed development. The TS concluded that the development would result in a reduction in the number of vehicle movements in connection with the site during peak hours, and of HGV movements in general, in comparison with the continued use of the existing land uses on site. The Highway Authority has confirmed it agrees with these conclusions.

A Road Safety Audit (RSA) was also submitted with the TS, which considered matters of both vehicular and pedestrian access between the application site and the public highway. The RSA made a specific recommendation regarding improvements to the pedestrian access from the site to the existing public footpath between the adjacent canal towpath and West Street. Details have been provided of works to be undertaken in West Street and the footpath, which is itself adopted highway, in accordance with this recommendation. The Highway Authority has recommended wording for an appropriate condition requiring these works to be provided prior to the first occupation of the development.

To ensure that all pedestrian crossing points have suitable facilities for pedestrians with mobility or sight impairment, the Highway Authority has recommended a suitable condition requiring such works to be undertaken prior to the first occupation of the development.

Subject to these recommended conditions as set out above, the Highway Authority considers that adequate vehicular and pedestrian access to the application site can be achieved.

Since the proposals are primarily geared toward providing a parking free development, the 33 spaces which are proposed, are considered to be acceptable, and the Highways Authority has offered the following comments which concur with this view:-

- The development is presented as being specialist student accommodation; the Highways Authority considers that a development occupied solely by students is likely in general to result in lower levels of car ownership than a development of traditional housing;
- Measures set out in the Management Plan will ensure that car parking in and around the site and car usage in general is strictly controlled, monitored and enforced by the management company; and
- The Highway Authority considers that the sustainable location of the application site will contribute towards its effective operation within the constraints proposed. A condition is recommended that requires the submission of a Green Travel Plan to encourage the operators to maximise the potential for alternatives to single-occupancy car journeys.

Overall, having regard to the information submitted by the applicant, the detailed consideration by the Highways Authority of both access and parking provision and in light of the recommended conditions and the management plan proposals, it is considered that the development will not result in detriment to highway and



pedestrian safety and therefore the development accords with Policies TR1, TR2 and TR3 of the Local Plan.

### **Contaminated land and environmental health impacts**

A number of surveys, ground investigations, noise reports and other technical information documents have been submitted with this application, all of which have been fully considered by the Environmental Health Officer (EHO). After seeking further points of clarification and requiring additional documents to supplement those originally submitted, the EHO has now confirmed there are no objections and that subject to the imposition of appropriate conditions the development will not give rise to harmful or other adverse impacts on the amenity of nearby residents, future occupiers of the site and other sensitive receptors from nearby land uses.

In terms of contaminated land, it is recommended that a condition be imposed on any forthcoming permission requiring the submission of a ground investigation strategy, report of the investigation and details of any remediation.

In terms of noise assessments, further work undertaken has concluded that it is possible to provide an appropriate internal noise environment for future occupiers of the development. A condition is therefore recommended requiring the developer to employ a glazing configuration that will achieve the required standard of attenuation which shall thereafter be maintained in accordance with the approved details.

Air quality/pollution has been considered against the Council's Low Emissions Strategy - A Guide for Developers document (2014). In this regard, a condition is recommended that requires the submission of a Low Emissions Strategy. It is anticipated this will include, for example, details of electric charging points for vehicles proportionate to the scale of development i.e. one charging point for every ten spaces (thus a total of four charging points).

Detailed work has been undertaken in respect of nuisance/pollution arising from demolition and construction, and while this does not negate the need to impose a condition on any forthcoming permission requiring the submission of a Construction Management Plan, it is noted that an assessment of potential dust emissions during demolition/construction has already been carried out and a report which sets out measures for the control of dust and this should be incorporated into the management plan. It is therefore recommended that a condition be imposed requiring the remaining details as recommended by the EHO in this regard.

Overall, in light of all the above considerations, it is considered that the proposed development does not raise any concerns in respect of ground contamination or noise and air pollution. Subject to the imposition of appropriate conditions the development is considered acceptable in these respects and accordingly is considered to comply with Policies BE3 and NE5 of the Local Plan.

### **Drainage and Flood Risk**

Following the receipt of further information, the Lead Local Flood Authority (LLFA) has confirmed that there is no objection to the proposal subject to a condition which requires the submission of a detailed surface water drainage

scheme based on sustainable drainage principles, the approved FRA and an assessment of the hydrological and hydrogeological context of the development.

Accordingly, officers consider the development accords with Policy FW1 of the Local Plan.

### **Ecological Impact**

The County Ecologist raises no objections to this development subject to conditions and notes. It is therefore considered the development is acceptable in this regard and in accordance with Policy NE2 of the Local Plan.

### **Open space contributions**

Policy HS4 seeks contributions from residential (and commercial) developments to provide, improve and maintain appropriate open space, sport or recreational facilities to meet local needs. The proposed development would not make any on-site provision for open space and accordingly, having been assessed by the Open Space team, a contribution of £172,260 would be required. This is calculated on the basis of:

10 x 1 bed dwellings @ £1,228 per room = £12,280

190 bedrooms in multiple bed dwellings @ £842 per room = £159,980

The contribution would be put toward the development objectives of Victoria Park, relating specifically to infrastructure improvements and providing outdoor fitness equipment. An additional 200+ students utilising this highly popular public open space would put significant additional pressure upon the facilities and exacerbate the existing issues on site. The proposal is considered to accord with HS4 and is acceptable in this regard, and it is noted that a contribution of this amount should be secured via a S.106 agreement.

### **Health and Wellbeing**

The application is considered to make appropriate provision for students who wish to live within the town centre of Royal Leamington Spa and would provide this opportunity, as well as supporting the economy of nearby local shops and the area in general.

### **Bin storage**

The Waste Management Officer has raised no objections to the development and advised that given the scale of the development and the number of occupants for whom it is intended the bin store should be large enough to accommodate a total of 16 x 1100 litre bins with space to accommodate more if they were needed in the future. The site layout has been amended during the course of this application to reflect this advice and space is now shown to accommodate the required number of bins with additional space if required at a future date. The development is therefore acceptable in this regard.

### **Crime prevention**

Warwickshire Police has raised no objections to the development and as such it is not considered that the proposals would result in any community safety issues. Accordingly it is considered the development is acceptable in this regard.

## **Other matters**

### Telephone mast

Comments have been received about the proximity of a mobile phone mast to the site. Whilst this is not a material planning consideration, this issue has been considered by the Environmental Health Officer following which the applicant's agent has indicated that they will be in contact with the mast operator as necessary.

### Canal & River Trust comments and request for financial contribution

The Canal and River Trust have requested a financial contribution to be paid that would assist in delivering improvements to the canal towpath which would facilitate safe, convenient and attractive walking and cycling options for both accessing services and facilities and general recreation, promoting health and well-being, consistent with the aims of the NPPF. A contribution from the developer would either cover increased maintenance costs, or would upgrade the towpath surface to a standard which is more durable and thus able to accommodate any increased usage associated with the proposals.

The towpath is identified as a key cycle and pedestrian route to access services and facilities and for leisure use to promote health and well-being and overall sustainability of the proposed development site and can therefore expect significantly increased usage. In officers' view, such a request for a financial contribution would in principle, be necessary, directly related to the proposed development, fairly and reasonably related in scale and kind to the development proposed and necessary and reasonable in all other respects, thus satisfying the relevant provisions of the NPPF and the Planning Practice Guidance.

### CIL

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

## **Summary and Conclusions**

The proposed development for purpose built student accommodation fails to comply with Policy H6 of the Adopted Local Plan by reason of the proportion of HMOs that would result within a 100m radius. However, it is considered that other material considerations exist which are sufficient to outweigh that objection which as set out above are:-

- The regeneration of the site;
- The visual improvements to the Canal-side environment;
- The removal of an unneighbourly use along with the associated impacts of that use; and
- The manner in which the development will be managed to minimise any impacts or loss of amenity within the surrounding area.

It is considered that the removal of the scrapyard, which is acknowledged as an unneighbourly use in an otherwise residential area, would be a significant benefit and the site's redevelopment through the construction of the proposed new building would provide a significant visual improvement and enhancement to the

character and appearance of the area, as well as residential amenity. Moreover, the development provides an opportunity to regenerate this particular area of the Grand Union Canal, making optimum use of the canal-side frontage, and it is acknowledged that the proposals would open up the area, improving connectivity and permeability in, through and around the site and present an opportunity to improve pedestrian and cycle links through the site and along the canal towpath.

The proposal is considered to be acceptable in terms of highway safety and environmental health matters which have been the subject of extensive additional survey work to address previous concerns. Further, it is considered to be acceptable in respect of neighbouring amenity arising from both the physical form of the building and the manner in which the use will operate and in respect of all other material considerations.

The recommendation is that planning permission be granted subject to a number of planning conditions and also to the completion of a Section 106 Agreement to ensure that the proposals are brought forward in an appropriate manner.

## 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 drawings 3323-100 Rev.B, 3323-101 Rev.C, 3323-103 Rev.F, 3323-104 Rev.F and 3323-109 Rev.C and specification contained therein, submitted on 30th August 2017 and amended drawings 3323-102 Rev.L, 3323-105 Rev.B, 3323-106 Rev.B, 3323-107 Rev.I, 3323-108 Rev.I and 3323-110 and specification contained therein, submitted on 20th November 2017. **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 Other than site clearance and preparation works no works shall commence on the construction of the development hereby permitted until samples of the external facing materials to be used have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. **REASON:** To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the locality in accordance with Policy BE1 of the Warwick District Local Plan 2011-2029.
- 4 No part of the development hereby permitted shall be commenced until details of both hard and soft landscaping works have been submitted to and approved in writing by the Local Planning Authority. Details of hard landscaping works shall include boundary treatment, including full details of any proposed boundary walls, railings and gates to be erected, specifying the colour of the railings and gates and including the

design, materials and finishes of all railings adjacent to the canal towpath; footpaths; and hard surfacing, which shall be made of porous materials or provision shall be made for direct run-off of water from the hard surface to a permeable or porous area. The hard landscaping works shall be completed in full accordance with the approved details within three months of the first occupation of the development hereby permitted. Details of soft landscaping works shall include full details and specifications of all proposed planting; and a soft landscaping scheme for the southern boundary of the application site adjacent to the Grand Union Canal shall include details of the size, species and spacing of any planting, any areas to be grassed, the treatment and finish of all hardsurfaced areas, together with a timetable for implementation of the scheme, and a long-term management plan. All planting shall be carried out in accordance with the approved details in the first planting and seeding seasons following the first occupation. 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 the same size and species as that originally planted. 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, NE4 and NE7 of the Warwick District Local Plan 2011-2029.

- 5 No part of the development hereby permitted shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles, the approved FRA and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority in consultation with the LLFA. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall:
  - Limit the discharge rate generated by all rainfall events up to and including the 100 year plus 40% (allowance for climate change) critical rain storm to the QBar Greenfield runoff rate of 5 l/s for the site.
  - Demonstrate the provisions of surface water run-off attenuation storage in accordance with the requirements specified in 'Science Report SC030219 Rainfall Management for Developments'.
  - Demonstrate that the surface water drainage system(s) are designed in accordance with 'The SuDS Manual', CIRIA Report C753.
  - Provide a detailed network model showing where the flooding will occur including exceedance flow and overland flow routing; overland flow routing should look to reduce the impact of an exceedance event.
  - Provide evidence of an agreement from Severn Trent Water to connect to an existing surface water network.
  - Provide a maintenance plan to the LPA giving details on how the entire surface water systems shall be maintained and managed after completion for the life time of the development. The name of the party responsible, including contact name and details shall be

provided to the LPA.

**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 FW1 of the Warwick District Local Plan 2011-2029.

- 6 No part of the development hereby permitted shall commence on site until a Ground Investigation Strategy has been submitted to and approved in writing by the Local Planning Authority. A report of the investigation and its findings together with recommendations for remediation shall be submitted to and approved in writing by the Local Planning Authority, and the means of validation (proving remediation) shall be approved by the Local Planning Authority. The approved remediation work shall thereafter be carried out in full. Upon completion of approved remediation work a report of that work and the validation shall be presented to the Local Planning Authority and approved in writing before development commences. In the event that unforeseen contamination is unearthed during the site clearance or construction work an immediate investigation shall be carried out by a competent person to determine the nature and extent of that contamination, a report of the investigation and proposals for remediation to be submitted to the local authority for approval and the approved remediation shall be implemented in full. **REASON:** To safeguard health, safety and the environment in accordance with Policies BE3 and NE5 of the Warwick District Local Plan 2011-2029.
- 7 No part of the development hereby permitted shall commence on site until an environmental noise assessment has been carried out by a competent person and a report of that assessment together with recommendations for any necessary mitigation measures to comply with BS 8233:2014 "Sound Insulation and Noise Reduction in Buildings-code of practice and "World Health Organisation Guidelines For Community noise" shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the approved details shall be carried out strictly in accordance with all the recommendations contained within the approved noise report, prior to the first occupation of the development hereby permitted. Thereafter the mitigation measures shall be maintained in accordance with the approved details. **REASON:** To ensure that the premises are not used in a manner prejudicial to or likely to cause nuisance or disturbance to the occupiers of nearby properties in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.
- 8 No part of the development hereby permitted shall commence until a Demolition Management/Site Clearance Plan together with a Construction Management Plan (including a phasing plan identifying suitable areas for the parking of contractors and visitors, the unloading and storage of materials and details to prevent mud and debris on the

public highway) has been submitted to and approved in writing by the Local Planning Authority. The approved Plan(s) shall be strictly adhered to throughout the construction period and shall include and make provisions for the following:-

#### Noise

- Work which is likely to give rise to noise off-site is restricted to the following hours: -  
Mon-Fri 8 am - 4 pm,  
Sat 8am -1pm,  
No working Sundays or Bank Holidays.
- Delivery vehicles are not allowed to arrive on site  
Mon – Fri before 8am or after 4.30 pm  
Sat before 8am or after 1 pm  
No deliveries on Sundays or Bank Holidays.
- Delivery vehicles are not be permitted to wait outside the construction site before the site is open for working.
- Best practicable means shall be employed at all times to control noise. The Contractor shall employ the best practicable means to reduce to a minimum the noise produced by his operations and shall comply with the general recommendations in BS 5228: 1984 'Noise Control on Construction and Open Sites'.
- Without prejudice to the generality of the Contractor's obligations imposed by the above statement, the following shall apply:-
- All vehicles, mechanical plant and machinery used for the purpose of the works associated with the Contract shall be fitted with proper and effective silencers and shall be maintained in good and efficient working order.
- All compressors shall be "noise reduced" models fitted with properly lined and sealed acoustic covers which shall be kept closed whenever the machines are in use and all ancillary pneumatic percussion tools shall be fitted with mufflers or silencers of the type recommended by the manufacturers.
- Whenever possible only electrically-powered plant and equipment shall be used.
- Acoustic screens shall be used to protect any noise sensitive development where deemed necessary by the Head of Health and Community Protection for Warwick District Council or his representative.
- All plant and machinery in intermittent use shall be shut down in the intervening periods between work.

#### Dust

- Unloading shall only take place within the site itself.
- Regular sweeping of access roads to the site must be carried out where mud is likely to affect residents and/or highway safety. In dry conditions damping down of road surfaces should be carried out to control dust. a vehicle wheel wash will be provided to minimize carry-over to the highway.
- On-site dust shall be controlled by use of "best practicable means" to prevent dust arising from road surfaces, wind whipping of stock piles, handling of dusty materials, crushing, compacting and cutting and grinding operations.

#### Smoke

- There shall be no burning on site

#### Light

- External work lighting, flood lighting, security lights must not cause light nuisance to neighbouring occupiers. Particular attention must be paid to the siting and orientation of lights to avoid glare.
- Other measures may be necessary to prevent nuisance subject to the nature of the construction work.

**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 and NE5 of the Warwick District Local Plan 2011-2029.

- 9 No part of the development hereby permitted (including demolition) shall commence until a further bat survey of the site, to include appropriate activity surveys in accordance with BCT Bat Surveys for Professional Ecologists- Good Practice Guidelines, has been carried out and a detailed mitigation plan including a schedule of works and timings has been submitted to and approved in writing by the District Planning Authority. Such approved mitigation plan shall thereafter 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.
  
- 10 No part of the development hereby permitted (including ground clearance works) shall commence until a protected species method statement for reptiles, amphibians and nesting birds (to include timing of works, supervision of vegetation clearance and reasonable avoidance measures) has been submitted to and approved in writing by the Local Planning Authority. Such approved measures shall thereafter 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.
  
- 11 No part of the development hereby permitted (including any works of demolition/remediation) shall commence on site until a Construction and Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority and thereafter the development shall be carried out in accordance with the approved details. The Plan shall include / provide for:
  - A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed (such as when badgers, reptiles and amphibians are active and during bird nesting seasons);
  - a) Persons responsible for:
    - b) Compliance with legal consents relating to nature conservation;
    - i. Compliance with planning conditions relating to nature conservation;
    - ii. Installation of physical protection measures during construction;
    - iii. Regular inspection and maintenance of the physical protection measures and monitoring of working practices during construction;
    - iv. Provision of training and information about the importance of Environment Protection measures to all construction



personnel on site.

**REASON:** To safeguard the environment and in the interests of the structural integrity of the waterway and to ensure the proposed works do not have any adverse impact on the safety or amenities of waterway users and the integrity of the Grand Union Canal in accordance with Policies BE1, NE3, NE5 and NE7 of the adopted Warwick District Local Plan 2011-2029 and the guidance contained in Paragraphs 120-121 of the National Planning Policy Framework.

- 12 No part of the development hereby permitted shall commence on site until a Method Statement detailing the design and means of construction of the foundations of the building hereby permitted, together with any other proposed earthmoving and excavation works required in connection with its construction, has first been submitted to and agreed in writing by the Local Planning Authority. The Method Statement shall identify and incorporate any measures required to avoid the risk of adversely affecting the structural integrity of the adjacent Grand Union Canal and towpath (such as vibration monitoring during piling operations). The development shall thereafter only be carried out in accordance with the agreed Method Statement. **REASON:** In the interests of avoiding the risk of creating land instability which could adversely affect the structural integrity of the adjacent Grand Union Canal and towpath in accordance with the provisions of paragraphs 120-121 of the NPPF and Policy NE7 of the Warwick District Local Plan 2011-2029.
- 13 The development hereby permitted shall not be occupied until a scheme which satisfies the requirements set out in the Council's adopted Low Emission Strategy Guidance for Developers (April 2014) has been submitted to and approved in writing by the Local Planning Authority and implemented in full accordance with the approved details. The approved scheme shall be retained and maintained as such 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.
- 14 The development hereby permitted shall not be occupied until a detailed external lighting scheme for the site has been submitted to and agreed in writing by the Local Planning Authority. The scheme should avoid illuminating the canal in order to reduce adverse impacts on emerging and foraging bats and other nocturnal wildlife and on the occupiers of boats moored adjacent to the site. The approved lighting shall be installed, maintained and operated in strict accordance with the approved scheme at all times thereafter and no lighting shall be installed other than that contained in the approved scheme. **REASON:** To ensure that any external lighting is designed to ensure that adverse impacts on the adjacent Grand Union Canal and any wildlife using or supported by the canal, and boaters mooring on the canal, are avoided and to accord with Policies NE5 and NE7 of the adopted Warwick District Local Plan 2011- 2029.

- 15 The development hereby permitted shall not be occupied until the pedestrian and vehicular access to the site, and parking and manoeuvring areas of the site have been laid out in accordance with drawing number 3323-102 Rev.L. All parts of the existing accesses to the site within the public highway not included in the permitted means of access shall be closed and the kerb and footway shall be reinstated in accordance with the standard specification of the Highway Authority. The external areas of the site shall thereafter be maintained in accordance with the approved drawing. **REASON:** In the interests of vehicle and pedestrian safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.
- 16 The access to the site for vehicles shall not be used unless a public highway footway crossing has been laid out and constructed in accordance with the standard specification of the Highway Authority. **REASON:** In the interests of highway safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.
- 17 The development hereby permitted shall not be occupied until the public highway D4620 West Street and the adopted footpath between West Street and the towpath of the Grand Union Canal have been improved so as to provide for works to improve pedestrian safety in accordance with approved drawing number 18388-03, in Appendix F of Transport Statement RMC/RD/18388-01e dated 11th September 2017. **REASON:** In the interest of vehicle and pedestrian safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.
- 18 The development hereby permitted shall not be occupied until the public highway D4614 Wise Street has been improved so as to provide for improved pedestrian facilities between the application site and A425 High Street in accordance with a scheme approved in writing by the local Planning Authority in consultation with the Highway Authority. **REASON:** In the interests of vehicle and pedestrian safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.
- 19 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 Policy BE3 of the Warwick District Local Plan 2011-2029.
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**Planning Committee:** 09 January 2018

**Item Number: 6**

**Application No:** [W 17 / 1641](#)

**Town/Parish Council:** Stoneleigh  
**Case Officer:** Liz Galloway

01926 456528 [Liz.galloway@warwickdc.gov.uk](mailto:Liz.galloway@warwickdc.gov.uk)

**Registration Date:** 09/10/17  
**Expiry Date:** 04/12/17

**The Barn, Stareton Lane, Stoneleigh, Kenilworth, CV8 2LL**  
Erection of detached carport FOR Mr. S. Hession

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This application is being presented to Committee as the Parish Council supports the application and it is recommended for refusal.

### **RELEVANT POLICIES**

- National Planning Policy Framework

#### The Current Local Plan

- BE1 - Layout and Design (Warwick District Local Plan 2011-2029)
- BE3 - Amenity (Warwick District Local Plan 2011-2029)
- DS18 - Green Belt (Warwick District Local Plan 2011-2029)

#### Guidance Documents

- The 45 Degree Guideline (Supplementary Planning Guidance)
- Residential Design Guide (Supplementary Planning Guidance - April 2008)
- Agricultural Buildings and Conversion - Barns (Supplementary Planning Guidance)

### **SUMMARY OF REPRESENTATIONS**

**Stoneleigh and Ashow Parish Council:** Support

**WCC Ecology:** Recommend bat box condition and reptile/amphibian/great crested newt and bird notes.

### **RECOMMENDATION**

Planning Committee is recommended to refuse planning permission for the reasons set out at the end of this report.

### **DETAILS OF THE DEVELOPMENT**

The application proposes a detached two bay car port building.

## **THE SITE AND ITS LOCATION**

The application site relates to a converted barn adjacent to Park Farm House, granted in 2001. The site is located to the south side of Stareton Lane in Stoneleigh, and is washed over by Green Belt.

## **PLANNING HISTORY**

W/01/0994 - Conversion of barn to a dwelling - Granted subject to conditions. Permitted Development Rights were removed from the site when the barn conversion was approved and a condition was added to retain the integral car port within the approved scheme. It was also stated that neither internal nor external alterations could be carried out to the integral car port without further permission. This condition was applied to protect the character and appearance of the rural barn building and to prevent the further need for detached garaging.

W/16/2032 - Conversion of car port to habitable room (retrospective application) - At the time the application was submitted the car port had already been converted into a habitable space for the dwelling, and glazed windows and doors had been added to the original openings - Planning permission was granted on the basis that the applicant had made a conscious decision to forego to integral parking area and the Local Planning Authority had full control over further detached buildings or extensions as permitted development rights had been removed.

## **ASSESSMENT**

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

- Whether the proposal constitutes appropriate development in the Green Belt and, if not, whether there are any very special circumstances which outweigh the harm by reason of inappropriateness and any other harm identified
- Design
- Impact on neighbouring residential amenity
- Ecology

Whether the proposal constitutes appropriate development in the Green Belt and, if not, whether there are any very special circumstances which outweigh the harm by reason of inappropriateness and any other harm identified

Warwick District Council Policy DS18 states that the Council will apply national planning policy to a proposal within the Green Belt.

Paragraph 89 of the National Planning Policy Framework states that local planning authorities should regard the construction of new buildings as inappropriate in the Green Belt, other than certain exceptions. The proposed development does not fall within any of these exceptions and therefore the

proposal must be regarded as inappropriate development. Furthermore, the proposed building would be a substantial structure that would occupy a prominent position within the site and would be visible from Stareton Lane. The proposal would therefore also be harmful to the openness of the Green Belt.

Paragraph 87 in the National Planning Policy Framework states that inappropriate development in the Green Belt should not be approved except in very special circumstances.

There are considered to be no very special circumstances in this's case to outweigh the conflict with Green Belt policy or the harm to the openness of the Green Belt and therefore the proposal does not comply with the National Planning Policy Framework.

When the original barn conversion was carried out, it created two integral car ports and this was intended to prevent the need to construct a separate garage building within the site, thus retaining the openness of the Green Belt. The loss of the garaging through the conversion into habitable rooms (under planning ref. W/16/2032) could be reversed if the applicant requires garaging.

### Design

The National Planning Policy Framework (NPPF) places significant weight on ensuring good design which is a key aspect of sustainable development and should positively contribute towards making places better for people. The NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving character, the quality of an area and the way it functions. Furthermore, Warwick District Council's Local Plan 2011 - 2029 Policy BE1 reinforces the importance of good design stipulated by the NPPF as it requires all development to respect surrounding buildings in terms of scale, height, form and massing. The Local Plan calls for development to be constructed using the appropriate materials and seeks to ensure that the appearance of the development and its relationship with the surrounding built and natural environment does not detrimentally impact the character of the local area. The Council has also produced supplementary planning guidance on barn conversions.

The proposal relates to a converted barn, which by its very nature was an outbuilding. To grant permission for an outbuilding to serve the barn would harm the character, setting and integrity of the converted barn and would be contrary to Policy BE1 and the SPG.

### Impact on neighbouring residential amenity

Warwick District Local Plan Policy BE3 requires all development to have an acceptable impact on the amenity of nearby users or residents and to provide acceptable standards of amenity for future users or occupiers of the development. There are no nearby residential uses which would be impacted as a result of the proposed development and therefore it is considered to comply with Local Plan policy BE3 and the NPPF.

### Ecology

WCC Ecology have commented on the application and have no objection to the development, subject to the inclusion of a scheme for the provision of 1 bat box condition, great crested newt, amphibian, reptile and nesting bird notes be attached to any approval granted.

### **Summary/Conclusion**

The application is for a new building within the Green Belt, which is contrary to national and local policy. No very special circumstances have been put forward which would outweigh the harm by reason of inappropriateness and harm to openness. Furthermore, the proposal would result in material harm to the character, setting and integrity of the converted barn.

### **REFUSAL REASONS**

- 1 Paragraph 89 of the NPPF states that Local Planning Authorities should regard the construction of new buildings as inappropriate development in the Green Belt. The application site is washed over by Green Belt and the proposed detached double car port does not meet any of the exceptions listed under paragraph 89 of the NPPF. No very special circumstances have been presented which outweigh the harm by reason of inappropriateness and harm to openness.
- 2 The proposal relates to a converted barn, which by its very nature was a rural outbuilding. To grant permission for an outbuilding to serve the barn would harm the character, setting and integrity of the converted barn and would be contrary to Policy BE1 and the Council's Barn Conversion SPG.

**Planning Committee:** 09 January 2018

**Item Number:** **7**

**Application No:** [W 17 / 1700](#)

**Town/Parish Council:** Leamington Spa

**Case Officer:** Rob Young

01926 456535 rob.young@warwickdc.gov.uk

**Registration Date:** 18/09/17

**Expiry Date:** 18/12/17

**Covent Garden Multi-Storey Car Park, Russell Street, Leamington Spa  
CV32 5HZ**

Full planning application including means of access, appearance, landscaping, layout and scale, for the demolition of Covent Garden Multi-Storey car park and pedestrian footbridge, and the erection of mixed use buildings comprising new 2,685m<sup>2</sup> (GIA) offices (use class B1) over four floors including plant room; a new multi-storey car park over four floors, comprising 617 car park spaces and 3 external spaces, 20 motor cycle spaces and 30 cycle spaces; and 44 residential units (use class C3) with 44 cycle spaces for the apartments. FOR PSP Warwick LLP

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This application is being presented to Committee due to the number of objections and an objection from the Town Council having been received, due to the Council being the owner of the site and a joint applicant, and because it is recommended that planning permission is granted subject to the completion of a legal agreement.

**RECOMMENDATION**

Planning Committee are recommended to GRANT planning permission, subject to conditions and subject to the completion of a satisfactory section 106 agreement. Should a satisfactory Section 106 Agreement not have been completed by 18 January 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 that are the subject of that agreement.

**DETAILS OF THE DEVELOPMENT**

The application proposes the following development:

- demolition of the existing multi-storey car park and pedestrian footbridge over Tavistock Street;
- erection of 2,685 sq m of offices;
- erection of a replacement multi-storey car park providing 617 internal car parking spaces, 3 external spaces, 30 motor cycle spaces and 30 cycle spaces; and
- erection of 44 apartments, including 44 cycle parking spaces.

The car park, offices and apartments would comprise a single building that would range from four to five storeys in height. The fifth storey would have a limited footprint over part of the apartments and offices and would be set back from the facades of the building. There would be an open courtyard area between the

apartments and the offices. The proposals would require the removal of a number of trees.

## **THE SITE AND ITS LOCATION**

The application relates to the site of the Covent Garden car park. This comprises a multi-storey car park on the eastern half of the site with a surface car park on the western half. The site is situated within a predominantly commercial part of Leamington Town Centre, although there are residential properties on the upper floors and to the rear of adjacent commercial premises on Clarendon Avenue, Tavistock Street, Parade and Warwick Street. There is also a residential care home under construction on the opposite side of Russell Street. The commercial premises surrounding the site include shops as well as bars and nightclubs.

The site is bounded by Tavistock Street to the east and by Russell Street to the west. To the south the site is bounded by a cul-de-sac that provides access to the rear of the buildings on Warwick Street. To the north the site is bounded by a cul-de-sac that provides access to the rear of the buildings on Clarendon Avenue.

The site is situated within the Leamington Spa Conservation Area. A number of the properties surrounding the site are listed buildings.

There are a number of trees within the site, mainly along the Russell Street frontage, although there are also some alongside the northern and southern boundaries of the site.

The multi-storey car park comprises 473 parking bays, 36 parent and child bays and two electric vehicle charging bays. The surface car park comprises 73 parking bays, 8 disabled bays and 1 motorcycle bay. This amounts to a total of 592 parking spaces. Vehicular access to the car park is from Russell Street, via separate "in" and "out" accesses.

The existing multi-storey car park has major structural defects. As a result, part of the car park is closed off, with 124 of the spaces out of use.

## **PLANNING HISTORY**

In 2006 planning permission was granted for "Extension to existing multi storey car park" (Ref. W06/1145).

There have been other previous applications relating to the application site, but none of these are relevant to the consideration of the current proposals.

## **RELEVANT POLICIES**

- National Planning Policy Framework
- DS1 - Supporting Prosperity (Warwick District Local Plan 2011-2029)
- DS2 - Providing the Homes the District Needs (Warwick District Local Plan 2011-2029)
- DS3 - Supporting Sustainable Communities (Warwick District Local Plan 2011-2029)
- DS4 - Spatial Strategy (Warwick District Local Plan 2011-2029)
- DS5 - Presumption in Favour of Sustainable Development (Warwick District Local Plan 2011-2029)



- DS11 - Allocated Housing Sites (Warwick District Local Plan 2011-2029)
- PC0 - Prosperous Communities (Warwick District Local Plan 2011-2029)
- EC1 - Directing New Employment Development (Warwick District Local Plan 2011-2029)
- TCP1 - Protecting and Enhancing the Town Centres (Warwick District Local Plan 2011-2029)
- H0 - Housing (Warwick District Local Plan 2011-2029)
- H1 - Directing New Housing (Warwick District Local Plan 2011-2029)
- H2 - Affordable Housing (Warwick District Local Plan 2011-2029)
- H4 - Securing a Mix of Housing (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)
- TR2 - Traffic generation (Warwick 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)
- HE1 - Protection of Statutory Heritage Assets (Warwick District Local Plan 2011-2029)
- HE2 - Protection of Conservation Areas (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)
- NE4 - Landscape (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)
- DM2 - Assessing Viability (Warwick District Local Plan 2011-2029)
- Open Space (Supplementary Planning Document - June 2009)
- Affordable Housing (Supplementary Planning Document - January 2008)
- Residential Design Guide (Supplementary Planning Guidance - April 2008)
- Distance Separation (Supplementary Planning Guidance)
- The 45 Degree Guideline (Supplementary Planning Guidance)
- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Vehicle Parking Standards (Supplementary Planning Document)

## **SUMMARY OF REPRESENTATIONS**

**Town Council:** Object on the grounds that the development does not make any provision for affordable housing, contrary to Local Plan Policy H2. The integration of affordable homes into this development would encourage inclusive and mixed communities as recommended in Policy H2.

**Public response:** 14 objections have been received, raising the following concerns:

- noise from the nearby nightclubs at Moo and Smack could adversely affect future occupants of the proposed apartments;
- full details of the acoustic specification of the materials used in the construction of the apartments should be provided prior to determination of the application, to ensure that noise from the nightclubs can be satisfactorily mitigated;
- noise and dust during construction;
- harm to the character and appearance of the conservation area;
- the design is not in keeping with the Regency style of the area;
- there is no provision for affordable housing, contrary to the requirements of the Local Plan;
- the development will not create a mixed and inclusive community given the absence of any affordable housing;
- the viability information should be made public;
- inadequate car parking;
- loss of public car parking within the town centre;
- loss of parking for town centre employees;
- limited staff parking provision will put additional pressure on other town centre car parks;
- no alternative provision for car parking during the construction phase - this will have a detrimental effect on local businesses;
- concerns about road closures and other disruption to businesses during the demolition and construction phase;
- the plans should include significant improvements to cycling and walking routes;
- insufficient provision for electric vehicle charging points;
- loss of public recycling facilities;
- the proposed layout of the car park will change the flow of people such that businesses in Warwick Street will lose out - trading at this end of Warwick Street is already challenging;
- the Council does not need a brand new HQ as there is plenty of spare office space at the Town Hall, Shire Hall and office blocks in Holly Walk;
- alternative options for dealing with the existing Riverside House building and the Council's need to downsize their office accommodation have not been adequately explored;
- the Council are under undue pressure to grant permission for their own application - the decision should be made by an independent third party;
- the public benefits of the relocation scheme are questionable;
- the assumptions regarding economic benefits cited in the socio-economic impact report are flawed;
- the economic argument for linking this scheme with the Riverside House proposals is flawed; and
- the public benefits do not outweigh the harm caused.

One comment in support has been received, although this also raises concerns about disruption and impact on businesses during construction.

**Cllr Knight:** Objects on the grounds that there is no provision for affordable housing.

**Cllr Naimo:** Objects on the following grounds:

- complete lack of affordable housing;
- the application documents make no consideration for displacement parking during construction works;
- a detailed car parking displacement plan should be agreed up front, rather than secured as a condition afterwards;
- inadequate parking in the completed development - no account has been taken of the 200+ Council employees and 44 residents that will reduce the number of spaces available, nor future growth;
- huge disruption to businesses and residents during construction works;
- sustainable transport provision is inadequate - no provision for cycle or walking routes and no mention of buses;
- inadequate provision for environmentally sustainable design;
- loss of the footbridge access to the Parade has not been properly considered; and
- lack of infrastructure and s106/CIL contributions.

Requests that the viability information is made available in the public domain, or at least to all District Councillors. It is in the public interest to show transparency for this project and one way of doing that is to show the workings on the viability of the scheme, both in relation to affordable housing and S106 contributions.

**Cllr Quinney:** Objects on the following grounds:

- complete lack of affordable housing;
- lack of consideration of alternative options for the new HQ;
- private developer benefiting from a viability test associated with a Council project;
- overdevelopment;
- increase in numbers over local plan allocation;
- adverse access and congestion issues for existing and new residents;
- massing effect on neighbouring residents;
- a comprehensive impact assessment is required for development that exceeds the planned density of dwellings;
- conflict of interest in the Council determining its own planning application;
- inadequate parking for the offices;
- loss of parking during the construction phase and subsequent harm to the vitality and viability of the town centre; and
- inadequate parking in completed scheme, with the offices and apartments taking up many spaces.

**Matt Western MP:** Objects on the following grounds:

- at a time when significant cuts have been made to Council budgets, it is surprising that the District Council is proposing to build new purpose-built offices;

- lack of affordable housing, setting an undesirable precedent for other developers;
- these proposals ignore the likely restructuring of local Councils;
- other options need exploring, such as assets owned by the County Council, or Leamington Town Hall;
- inadequate car parking;
- car parking in the town centre is already full to capacity;
- car parking spaces will be taken up by the offices, impacting on the viability of town centre businesses;
- loss of parking during the construction phase;
- refers to the concerns of the Chamber of Trade and BID Leamington;
- conflict of interest in the Council determining its own planning application;
- lack of transparency regarding the financing of the deal;
- imprudent use of public money;
- investing this amount of money at a time of public sector cuts is not appropriate; and
- inadequate consultation.

**Conservation Advisory Forum:** The proposed mix of uses is welcomed and will help to create life and activity within this part of the Royal Leamington Spa Conservation Area.

The design of building, which includes the council offices, could better reflect the Regency grandeur of the Royal Leamington Spa Conservation Area, and the proposed use of buff bricks, and terracotta fins, is not supported as these materials are alien to the appearance of the surrounding Conservation Area.

Concerns are raised about the future use of Leamington Town Hall, and appropriate uses, such as a public library with community spaces, or a use by Warwick University, should be brought forward to ensure it doesn't fall into disrepair.

**Leamington Chamber of Trade:** Object. Whilst we are very keen to support quality developments in the town centre, we have serious misgivings about the parking displacement plan. The proposed displacement arrangements put the economic viability of the town and its businesses in some jeopardy.

The provision of parking spaces in the town centre is already close to saturation point during peak hours. For a town of our size, the number of spaces is below average.

The current displacement proposals are only a series of suggestions, rather than a robust plan with appropriate funding. If implemented as is, it could negatively impact any inward investment opportunities and visitors' accessibility to the town centre.

During the period of demolition and rebuilding (estimated at 2 years) the displacement strategy fails to provide both adequate numbers of spaces or suitably proximate parking locations for town centre users. At a time when town centres face competition from many quarters, taking approximately 30% of the off-street parking away is a serious risk for the commercial viability of the town centre retail and service businesses.

**BID Leamington:** Object on the following grounds:

- harm to the vitality and viability of Leamington Town Centre;
- loss of car parking during construction;
- inadequate car parking following completion due to spaces being taken up by the apartments and offices;
- town centre parking is already full to capacity at times;
- demand for town centre parking is forecast to rise;
- further levels should be added above the Chandos Street car park to provide replacement spaces while Covent Garden is redeveloped and to then meet future demand;
- loss of the pedestrian link to Upper Parade - a location that is already experiencing evidence of stress for retail trading;
- inadequate consultation; and
- a B1 permission will not allow the premises to be used as Council offices, because this is a sui generis use.

**Historic England:** Despite the large scale of the proposed building it fits reasonably well within the context of the town centre which contains tall Regency terraces, although some of the immediate setting is lower rise development. In broad terms the design is straightforward and has 'clean' modern lines, although it could be further refined. However, there is also a danger of too much eclecticism, the term used to describe the design approach in the Design and Access Statement which has lead to the slightly incoherent result.

The selection of high quality materials will be crucial. The general choice in the centre of Leamington Spa is, of course, stuccoed facades with brickwork mostly confined to the rear elevations.

**Environment Agency:** No objection.

**Warwickshire Police:** No objection.

**South Warwickshire Clinical Commissioning Group:** Request a contribution of £44,352 towards primary healthcare.

**South Warwickshire NHS Foundation Trust:** Request a contribution of £45,758.47 towards acute and community healthcare.

**WCC Archaeology:** No comment.

**WCC Flood Risk Management:** No objection, subject to a condition to require drainage details.

**WCC Landscape:** Object. The absence of any meaningful landscaping is disappointing. Have opportunities for living walls and green roofs been fully explored? The "landscaped entrance" depicted in the Design and Access Statement is unimaginative and minimalist. Without detailed landscape proposals, to include species, size of plants, establishment methods, maintenance etc., I am unable to comment fully on this application.

**WCC Ecology:** No objection, subject to conditions.

**WCC Public Health:** No objection.

**WCC Highways:** No objection, subject to conditions and section 106 requirements.

**WCC Infrastructure:** Request contributions of £3,000 towards sustainable travel packs, £547 towards libraries and £188,827 towards education.

**WDC Tree Officer:** Raises queries about the tree protection details.

**WDC Green Space:** Request a contribution of £44,768 towards the provision or enhancement of public open space.

**WDC Waste Management:** Advise that the residential and office bin stores should be increased in size.

**WDC Cultural Services:** Request a contribution of £39,409 towards indoor sports facilities and £2,849 towards outdoor sports facilities.

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

**WDC Housing Strategy:** Set out the Council's standard requirements in relation to affordable housing. However, note that a viability assessment has been submitted which may negate the ability to deliver affordable housing.

## **ASSESSMENT**

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

- the principle of development;
- the impact on the living conditions of nearby dwellings;
- provision of a satisfactory living environment for future occupants of the apartments;
- the impact on the character and appearance of the conservation area and the setting of nearby listed buildings;
- the impact on highway safety;
- car parking (completed scheme);
- car parking (during construction);
- impact on the vitality and viability of the town centre;
- landscaping and impact on trees;
- drainage and flood risk;
- ecological impact;
- provision for refuse and recycling storage;
- mix of market housing;
- provision for affordable housing;
- section 106 contributions;
- health and wellbeing; and
- public benefits.

### **Principle of development**

Each of the 3 elements of the scheme will be dealt with in turn in this section of the report. Dealing first with the offices, Local Plan Policy EC1 states that new office development will be permitted within the town centres of the District.

Therefore the office element of the proposals is in accordance with this policy. Turning to the residential element of the scheme, the site comprises previously developed land within the urban area and consequently this is an appropriate location for new residential development, in accordance with Local Plan Policy H1. Finally the proposed car park will replace an existing car park. Public parking is an appropriate use for a town centre site and supports the vitality and viability of the town centre.

For these reasons it has been concluded that the proposed uses would be acceptable in principle on this site.

#### Impact on the living conditions of nearby dwellings

The separation distances to some nearby residential properties would be less than the minimums specified in the Council's Distance Separation Guidelines. However, the Guidelines state that, within conservation areas, where the overriding need is to preserve or enhance the character or appearance of the area, the provisions of the guidance will not be directly applied. This is relevant in the current case because setting the development back into the site to comply with the Guidelines would create a form of development that is alien to the conservation area. Traditional development in the locality abuts the back of the pavement. Furthermore, the site is situated within the commercial core of the town centre, where suburban separation distances are not expected.

Nevertheless, the impact on the nearby dwellings with regard to loss of light, outlook and privacy remains a material consideration. The following paragraphs therefore go on to consider this in detail.

Dealing first with the issue of light and outlook, the closest relationship is with the residential accommodation at Nos. 1-5 Russell Street, which is close to the northern boundary of the site. The separation distance there would be 6.5m. There are windows in the south elevation of that property that face the application site. However, the proposed building is set back from Russell Street, such that the part of the site immediately in front of those windows will remain undeveloped. Therefore it is considered that the proposals will not unduly restrict the outlook or light available to those windows.

The next closest relationship is with the residential accommodation at No. 39a Warwick Street and on the upper floor of Jephson's Bar. However, the proposed building would be no closer to those properties than the existing multi-storey car park. Therefore the impact in terms of light and outlook would be similar to the existing situation.

In terms of other nearby residential properties, the separation distances are similar to the minimum distances across public streets in the conservation area. As a result, it is considered that the proposals would retain adequate outlook and light for these residential properties, for a town centre location.

Turning to the issue of privacy, the proposals will introduce residential and office windows where there are currently none. Furthermore, the new multi-storey car park will introduce upper parking levels onto part of the site that is currently a surface car park, with a resulting potential for new views down into surrounding properties. Nevertheless, these views would be across public streets in a busy commercial locality. Therefore it is not considered that the proposals would result

in an unacceptable loss of privacy for any of the surrounding residential properties.

There has been no objection from Environmental Health and therefore, subject to appropriate conditions, it has been concluded that the proposals will not give rise to any other harmful effects on nearby residential properties, including noise or lighting issues.

For the above reasons it has been concluded that the proposals will have an acceptable impact on the living conditions of nearby residential properties.

#### Provision of a satisfactory living environment for future occupants of the apartments

The operator of two local bar / nightclubs (Moo on Russell Street and Smack on Tavistock Street) has raised concerns about noise from their premises potentially affecting occupants of the proposed flats. This is addressed in a noise assessment that was submitted with the application. The noise assessment identifies a need for mitigation to be provided to protect the proposed dwellings from late night entertainment noise as well as from road traffic noise. This will include uprated building materials in the form of high performance acoustic double glazing as well as mechanical ventilation so that windows do not need to be opened. Full details can be required by condition. It is also noted that the external amenity area for the flats will be shielded from road noise by the proposed building. There has been no objection from Environmental Health on this basis. Therefore it is considered that an appropriate noise environment will be provided for future occupants of the flats.

#### Impact on the character and appearance of the conservation area and the setting of nearby listed buildings

This is a sensitive site in heritage terms, due to its size and prominence on two streets within the conservation area (Russell Street and Tavistock Street) and also due to its close proximity to a number of listed buildings. The nearby listed buildings on Russell Street, Clarendon Avenue and Warwick Street are Grade II. The nearby listed buildings on Parade that back on to Tavistock Street at Grade II\*, as are some of the buildings fronting onto Tavistock Street that are listed by virtue of being within the curtilage of those Parade buildings.

In heritage terms, the significance of this part of conservation area derives principally from the historic Regency street pattern and the Regency and early Victorian buildings that front onto surrounding streets. The significance of the nearby listed buildings derives principally from them being good examples of Regency and early Victorian architecture.

The starting point for an assessment of the heritage impact of the proposals is the current state of the site. The current development on the site detracts from the character and appearance of the conservation area and the setting of nearby listed buildings. Negative factors in this regard include the incongruous design of the existing multi-storey car park and associated pedestrian bridge over Tavistock Street, which are two of the most significant visual detractors in the conservation area at present. Another is the fact that the whole of the Russell Street frontage of the site is a surface car park, which is at odds with the traditional pattern of development in the area which comprises of buildings



addressing the street, positioned either at the back of the pavement or close to the back of the pavement.

In contrast, the proposals follow a traditional pattern of development with buildings fronting on to the surrounding streets. In urban design terms this is a significant improvement on the existing surface car park.

The scale of the proposed building is not dissimilar to that of the existing car park, with a parapet height of between 12m and 13.5m compared to a parapet height of between 11.5m and 13.5m for the existing car park. The plant room of the proposed offices and the top floor of the apartments extend above this, up to a maximum height of between 15m and 17.8m. However, these parts of the building are set back behind the parapet and so will not be readily visible from street level. In addition, the stair cores of the proposed car park would extend above the parapet level, up to a maximum height of 15m, together with a lower transparent safety barrier around the remainder of the parapet. However, this is comparable to the height of the stair cores and safety barriers of the existing car park. The scale of the proposed building is also comparable to that of other buildings in the locality and therefore is considered to be appropriate.

In terms of detailed design, the Conservation Advisory Forum consider that this could better reflect the Regency grandeur of the conservation area. However, with this traditionally having been a mews area behind the more significant adjoining streets, having a design with more grandeur would not necessarily be appropriate. The proposals are in a contemporary style but with a vertical emphasis that reflects the Regency character of the locality. This is considered to be an appropriate design solution for this site and this successfully integrates the offices, apartments and multi-storey car park into a single building with a unified design. Furthermore it is important to note that the design that has been proposed represents a significant improvement on the design of the existing multi-storey car park.

The Conservation Advisory Forum also raise concerns about the proposed materials. However, whilst an indication of materials has been provided, this is a level of detail that is not normally dealt with at the application stage. A condition can be imposed to require details of materials to be submitted for approval before construction works commence. This would also address the comments of Historic England. In discharging this condition the Council will have the opportunity to secure suitable materials that are in keeping with surrounding traditional development and appropriate for the design of the proposed building.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty to ensure that new development preserves or enhances the character and appearance of conservation areas. Meanwhile, for development affecting the setting of a listed building, Section 66 imposes a statutory duty to have special regard to the desirability of preserving the setting of the building. For the reasons stated above, in the context of the negative impact of the development that exists on the site at present, it has been concluded that the proposals would enhance the character and appearance of the conservation area and the setting of nearby listed buildings. For these reasons the proposals would also accord with the NPPF and Local Plan Policies HE1 and HE2.

### Impact on highway safety

The Highway Authority initially raised concerns about elements of the Transport Assessment that was submitted with the application. The applicant has submitted further information in response and the Highway Authority have confirmed that this has addressed their concerns. As a result, having undertaking a full assessment of the highway impact of the proposals, the Highway Authority raise no objection to the application.

The Highway Authority acknowledge that the provision of Council offices within the town centre provides the opportunity for staff to travel by sustainable modes of transport. They go on to note that a Travel Plan can be conditioned to actively promote sustainable transport use by employees of the office element of the scheme. They also confirm that traffic modelling demonstrates that the impact of the proposals in terms of additional delays and queuing cannot be considered to be detrimental.

The Highway Authority are satisfied that sufficient information has been submitted to demonstrate that the car park will be managed to ensure that sufficient short term parking will be retained for visitors to the town centre. A condition is recommended to require the submission and approval of a Parking Management Strategy to secure full details prior to the opening of the car park.

Spaces are proposed to be reserved within the new car park for occupants of the residential part of the scheme. The Highway Authority recommend that a condition is imposed to secure this.

Finally, the Highway Authority advise that the proposed vehicular accesses to the development are acceptable.

In conclusion on this issue, the Highway Authority advise that the impact on the operation of the highway and transport networks will be minimal and therefore cannot be considered as severe under para. 32 of the NPPF.

Objectors have requested improvements to cycling and walking routes. However, there has been no request for anything in this regard from the Highway Authority. The site already benefits from a good degree of accessibility by cycling, walking and public transport and therefore it is not considered necessary to require any improvements as a condition of this scheme.

### Car parking (completed scheme)

Objectors have raised concerns about the adequacy of the proposed parking provision, particularly when considering the fact that some of the proposed spaces will be taken up by the residential and office elements of the scheme. This concern is shared by Leamington Chamber of Trade and BID Leamington.

The completed development would provide a total of 620 car parking spaces (617 internal and 3 external). This would be more than is provided by the existing surface and multi-storey car park (592 in total, including the levels that are currently closed). The proposed public car park would also include 20 motorcycle spaces and 30 cycle spaces, a significant enhancement on the current provision (1 motorcycle bay and no formal cycle provision). In addition, a

separate provision of 44 covered cycle parking spaces is included for the proposed apartments.

Of the 620 spaces, 56 are to be reserved for occupants of the proposed flats and 57 for the offices. This would meet the requirements of the Council's Parking Standards for each of these uses.

This leaves 458 spaces for public use during the week and 515 spaces at the weekend (when the offices are closed). This is comparable to the 469 spaces that are currently available. Bearing in mind the fact that the Highway Authority have concluded that appropriate parking will be provided for the apartments and offices whilst also leaving sufficient residual spaces for short term parking for the town centre, it has been concluded that the completed scheme will provide adequate parking. In reaching this conclusion, it is also noted that demand very rarely outstripped supply when the existing car park was operating at full capacity.

#### Car parking (during construction)

Objectors have raised significant concerns about the loss of parking during the period between the closure and demolition of the existing car park and the completion and opening of the replacement car park. The concern is that there will be insufficient public car parking available during this period and that this will adversely affect the vitality and viability of the town centre. This concern is shared by Leamington Chamber of Trade and BID Leamington. It has been suggested that the applicant should be required to implement a car parking displacement strategy to replace the lost spaces for the duration of the construction works.

This raises a legal issue as to whether it would be lawful to impose such a requirement as a planning condition or section 106 obligation. Legal advice on this matter has been sought and the advice can be summarised as follows.

*Local authorities may exercise discretion to use their land for car parking. They may also prepare strategies for the management of public car parking facilities. The provision and management of public car parking undoubtedly operates in the public interest. However it is a separate and distinct function from a local authority's exercise of planning powers.*

*In this case, the redevelopment of Covent Garden will generate a need for car parking. Local Plan Policy T3 allows the local planning authority to require the development to incorporate sufficient car parking spaces to meet that need. The scheme does so. Therefore a condition could lawfully be imposed to secure the provision of those car parking spaces. That would serve a proper planning purpose, relate fairly and reasonably to the development and satisfy the general test of reasonableness (i.e. the 3 key legal tests for planning conditions).*

*However, a condition requiring the implementation of a car parking displacement strategy would not be imposed for a proper planning purpose. Nor would it relate fairly and reasonably to the development that is proposed. It would not address any planning consideration that arises from the development itself. Instead its imposition would reflect an ulterior motive, viz. to secure the continuity and effective operation of the Council's car parking service whilst redevelopment takes place and to defray the cost of such provision. That is undoubtedly ultra*

*vires under section 70(1) of the Town and Country Planning Act 1990 and would thus be unlawful.*

*The condition would also be unreasonable in five respects. First, it is difficult to reconcile the requirement to produce a car parking strategy with the fact one has already been procured by the District Council. Second, the requirement to implement the strategy requires the applicant to take on and discharge an activity which has been assumed by the Council. Third, it would be extremely onerous to require the applicant to implement the strategy. There is no certainty they could secure control over the land that would be required to make good the identified shortfall. Even if it could, it would be wholly unreasonable to transfer the very substantial cost of implementing the scheme onto the applicant. Fourth, there is no need for the applicant to formulate a strategy; the Council have produced one. Fifth and finally, the requirement to make up for the temporary loss of public car parking overlooks a relevant consideration, namely the potential of private sector providers to make up the shortfall. That serves to reinforce the impression the condition is intended to advance the interests of the Council's parking service or to bolster the Council's financial position rather than address a planning issue that arises from the development itself.*

*My conclusion that a condition would be unlawful does not mean the temporary loss of car parking during redevelopment is not a material consideration. The temporary effect of redevelopment on car parking in the town centre is certainly relevant to planning. However, it obviously does not follow that merely because a matter is a material consideration that may give rise to adverse land use consequences it may be controlled by a condition, let alone one that is formulated without due regard to the law and the Secretary of State's policy. Thus one is still confronted by the difficulty that a condition which bears superficially on concerns about a temporary loss of car parking would in reality be imposed as part of a wider strategy for managing the public sector car parking service in Leamington town centre and bolstering the Council's budget. The condition is not necessary (the scheme would be acceptable without the imposition of the condition because the Council will take steps to manage any shortfall in parking spaces during periods of peak demand). Thus the condition would be unlawful and contrary to policy.*

Similar advice is provided in relation to the question of whether it would be lawful to require the applicant to enter into a section 106 agreement to secure a car parking displacement strategy. The advice is that this would not be necessary to make the development acceptable, it would not be directly related to the development and it would not be fairly and reasonably related in scale and kind to the development. Therefore such a requirement would not pass the tests of CIL regulation 122 and as a result would not be lawful.

The legal advice does confirm, however, that an applicant may enter into a section 106 agreement even where it is unnecessary to make the development acceptable in planning terms. However, it should be borne in mind that such an obligation that does not comply with CIL regulation 122 may not be treated as a material consideration when the application is determined.

The above legal advice is clear; it would be unlawful to require the applicant to implement a car parking displacement strategy by a condition or planning obligation (section 106 agreement). As such, it is not possible to secure the alternative parking provision that objectors seek through this planning

application. This is more appropriately a matter for the Council as a corporate body (i.e. not as local planning authority) to address through its discretionary function of providing public car parking. In this regard the applicant has offered to include clauses in a section 106 agreement to secure the submission and implementation of a car parking displacement strategy. This will go some way to addressing the concerns of objectors, but the legal advice is clear that this part of the section 106 agreement should not be taken into account as a material consideration in the assessment of the application.

Insofar as the issue of the short term loss of public parking is a material consideration in the assessment of this application, there will be some short term negative impacts in this regard. However, this is inevitable with a scheme to redevelop one of the main car parks in the town. Furthermore, these negative impacts will arise whenever the car park is redeveloped, whether it be as part of the current scheme to provide new Council offices or as part of a scheme solely for the replacement of the car park. Given the structural defects that have been identified this is going to happen at some point in the not too distant future regardless of what decision is made on the current planning application. Indeed, part of the car park has already had to be closed off due to these defects, with no replacement spaces provided. Without the current scheme it may be that the car park would reach the end of its life without any proposals in place for its replacement, in which case the short term loss of spaces would extend over a longer period.

In terms of what is likely to happen during the construction of the car park, it is reasonable to expect that the Council as operator of the majority of the car parking within the town centre will seek to implement measures to reduce the impact if necessary. Furthermore it might also be expected that private landowners would make sites available for parking if there was evidence of excess demand.

Taking these factors into account, whilst there would be some short term negative impacts due to the loss of public parking, it is not considered that these would be of any significance in the overall planning balance, and certainly not significant enough to outweigh the benefits of the scheme. In this regard, it is also important to note that, once completed, the proposed development will significantly enhance the vitality and viability of the town centre, as detailed in the following section of this report.

#### Impact on the vitality and viability of the town centre

Concerns have been raised about the proposed layout of the car park affecting the flow of pedestrians in a manner that would be detrimental to the peripheral parts of Warwick Street and Parade. However, the main pedestrian entrance to the proposed car park is to the rear of the shops in Warwick Street, in a similar position to the entrance of the existing car park. There would be a further pedestrian entrance onto Russell Street. As a result, the proposals are unlikely to significantly change pedestrian flows in relation to Warwick Street.

The removal of the bridge link to Parade would be a more significant change in this regard. However, it would be undesirable on design grounds to seek to retain or replicate this. The alternative route along Tavistock Street and Warwick Street would bring pedestrians out at a point 86m further south on Parade, closer to the centre of the retail area. Therefore, when also taking account of the

design benefits of removing the bridge, it is not considered that there are planning grounds for insisting on the bridge link being retained or replicated.

Overall, the impact of the development on the vitality and viability of the town centre would be majorly beneficial. This would include the provision of a new multi-storey car park to replace an existing car park with major structural defects. Furthermore, the offices and apartments would generate footfall and spending in the town centre.

#### Landscaping and impact on trees

A total of 21 trees are proposed to be removed to make way for the proposed development. Of these, 12 are category B, 5 are category C and 5 are category U. However, these are mostly the less important trees adjacent to the northern and southern edges of the site together with some thinning out of the trees along the western frontage to Russell Street. Most of the more significant trees along Russell Street are proposed to be retained.

In a context where the trees along the Russell Street frontage make the most marked contribution to the character of the area, it is not considered that the remainder of the trees make any significant contribution. Therefore, whilst there would be some limited harm arising from their removal, this would be far outweighed by the benefits of the scheme as cited elsewhere in this report.

The Council's tree officer has raised some issues with the tree protection proposals that have been submitted. However, a condition can be imposed to require the submission of a revised Arboricultural Method Statement to address these issues prior to works commencing. This will ensure that the retained trees are adequately protected.

WCC Landscape have raised issues with the landscaping indicated on the proposed plans. However, the detailed landscape design is normally dealt with by conditions and this is considered appropriate in this case.

#### Drainage and flood risk

The applicant has submitted further drainage information to address issues that had been raised by WCC Flood Risk Management. Following the receipt of this further information, WCC Flood Risk Management have confirmed that they have no objection to the application. Therefore the proposals are considered to be acceptable in terms of drainage and flood risk.

#### Ecological impact

There is no evidence of protected species using the application site and there has been no objection from the County Ecologist. Therefore it has been concluded that any ecological impact can be satisfactorily mitigated by conditions.

#### Provision for refuse and recycling storage

The residential bin store has been increased in size in accordance with the recommendations of WDC Waste Management. This is accessible from the access road to the south of the site and therefore the proposals make adequate

provision for the storage and collection of refuse and recycling for the residential element of the scheme.

WDC Waste Management also recommended that the office bin store be increased in size to match the current provision at Riverside House. However, the proposed offices are significantly smaller than Riverside House (2,685 sq m compared with 6,427 sq m) and therefore it is considered appropriate for there to be a commensurate reduction in the amount of space provided for refuse and recycling storage. Furthermore, the size of the bin store for commercial premises is more of a matter for the developer and prospective occupier than for the local planning authority because the Council does not have any responsibility for collecting commercial waste. The occupier would be liable to pay for more frequent private refuse and recycling collections if the bin store is smaller.

#### Mix of market housing

Local Plan Policy H4 requires proposals to include a mix of market housing that contributes towards a balance of house types and sizes across the district, including the housing needs of different age groups, in accordance with the latest Strategic Housing Market Assessment (SHMA). The proposed development does not meet this requirement because it comprises 1 and 2 bedroom apartments, with no 3 or 4 bedroom units. However, Policy H4 accepts that these requirements may not be suitable on all sites and lists a range of circumstances where it might not be appropriate to provide the full range of housing types and sizes.

The proposals are considered to meet criterion (b) of Policy H4. This refers to locational issues, such as highly accessible sites within or close to the town centre where larger homes and low / medium densities may not be appropriate. The application site falls squarely within the scope of this criterion, being situated within the commercial core of the town centre.

For this reason it has been judged that the proposals provide an appropriate mix of market housing for this location and do not conflict with Local Plan Policy H4.

#### Provision for affordable housing

The applicant has submitted a viability appraisal to demonstrate that the provision of any affordable housing on the site would render the scheme unviable. This has been independently verified by the local planning authority's surveyors, Jones Lang Lasalle. They have undertaken a robust assessment of the applicant's appraisal and have confirmed that they are in agreement that the provision of any affordable housing on the Covent Garden site would render the scheme unviable. Indeed, even without the costs of providing affordable housing, the development on the Covent Garden site is reliant on cross-subsidy from the development on the Riverside House site (application no. W17/1701) to make it viable.

Objectors have raised concerns about the setting of an undesirable precedent that will make it harder for the Council to require developers to provide affordable housing on other sites. However, the circumstances in this case are unique and will not be replicated on any other scheme. As a result there is no danger of a precedent being set. In any case, each planning application must be

determined on its own merits; decisions on planning applications do not work on the basis of precedent.

The applicant has advised that their viability appraisal is commercially sensitive and therefore must not be made publicly available. As a result a copy of this information will be forwarded to Members of the Planning Committee in confidence. Similarly the Jones Lang Lasalle report is also commercially sensitive and therefore will be dealt with in the same manner (i.e. disclosed only to Members of the Planning Committee).

It has been suggested that this information should be disseminated more widely, at least to all Members of the District Council, as it relates to a Council project. However, this would be treating the current application differently to all other applications where viability information is provided. Legal advice has been sought on this matter and this confirms that the involvement of the Council in the proposals does not mean that this information is not commercially sensitive. In any case, the proposal is a joint venture with a private sector partner and is not solely a public sector / non-commercial project.

If Members of the District Council wish to seek the release of this information on the basis that this is a Council project, then this should be pursued with the District Council as a corporate body outside of the planning system. It is important that the local planning authority approaches this manner in the same way that it does all planning applications.

#### Section 106 contributions

Members will be aware that CIL came into effect on 18 December and the scheme would be liable for this. There have also been separate requests for section 106 contributions from various consultees, as detailed in the Summary of Representations section of this report. However, the viability appraisal that the applicant has submitted demonstrates that there is no surplus in the scheme to pay for CIL or S106 contributions, other than the site specific matter relating to sustainable travel packs (£3,000).

It is considered that this contribution meets the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations, i.e. it is considered necessary to make the development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related to the development in scale and kind. Furthermore the pooling restrictions in Regulation 123 are not breached.

The section 106 agreement will also include a non-Regulation 122 compliant clause to secure the submission, approval and implementation of a car parking displacement strategy. As advised previously, this clause must not be treated as a material consideration in the assessment of the application.

#### Public benefits

A number of objectors have questioned whether the scheme would generate the benefits that have been suggested by the applicant. However, it is clear that the scheme would generate a number of significant public benefits. This includes the provision of a new multi-storey car park to replace an existing car park with major structural defects. In addition there would be significant public benefits



associated with the new Council offices, including cost savings for the Council, which would ultimately benefit local people through avoiding the need to cut services. Furthermore, the offices and apartments would generate footfall and spending in the town centre, including relocating 300+ Council employees into the town centre. The offices will also provide a better working environment for Council staff, Councillors and visiting members of the public.

Turning to the issue of design, the proposals would represent a significant enhancement in the appearance of a large site within the conservation area, replacing a structure which is one of the most significant visual detractors in the conservation area at present. The proposals also provide a substantial amount of housing, both on the Covent Garden site (44 units) and by freeing up the Riverside House site for residential development (up to 170 units). Then there are all of the usual economic benefits associated with a major construction project (construction jobs, contracts for local companies etc.).

Altogether, the public benefits of the scheme are considerable. In the planning balance that must be struck in the assessment of this application, these benefits weigh heavily in favour of granting permission.

#### Health and wellbeing

The proposals do not raise any specific issues relating to health and wellbeing.

#### Other matters

Objectors have raised concerns about the loss of public recycling facilities from the application site. However, the applicant advises that there is a surplus of this type of recycling site in the locality. Furthermore, there has been no objection from the Council's Waste Management team, who have responsibility for domestic recycling.

A condition is recommended to require the submission of a Construction Management Plan. This will address concerns that residents have raised regarding noise and dust during construction.

An objector has queried the provision for electric vehicle charging points. However, this is an issue that would be covered by a low emissions strategy. A condition is recommended to require the submission and implementation of such a strategy. This will provide adequate mitigation for the impact of the proposals on air quality.

A condition is recommended to require the offices to meet a BREEAM standard "very good". This will ensure that the proposals meet the requirements of Local Plan Policy CC3.

A condition is recommended to require a contamination assessment, in accordance with the comments of Environmental Health. This will provide adequate control over any potential contamination issues.

#### **SUMMARY / CONCLUSION**

The proposed offices and residential development would be in accordance with Local Plan Policies EC1 and H1 respectively. The proposed car park will replace

an existing car park and will support the vitality and viability of the town centre. Therefore the 3 elements of the scheme are considered to be acceptable in principle. The relocation of the Council's offices and the provision of a replacement car park and a significant number of dwellings would generate substantial public benefits.

The proposals would have an acceptable impact on the living conditions of neighbouring dwellings and would provide a satisfactory living environment for future occupants. Furthermore, the proposals would have an acceptable impact on the character and appearance of the conservation area and the setting of nearby listed buildings. The proposals are also considered to be acceptable in terms of car parking, highway safety, drainage / flood risk and ecological impacts.

The impact on trees is considered to be acceptable and details of suitable landscaping can be secured by condition. Furthermore, the proposals make adequate provision for the storage and collection of refuse and recycling and the mix of market housing is considered to be appropriate for this town centre location. With regard to affordable housing, evidence has been submitted to demonstrate that this would render the scheme unviable. Finally, the proposed section 106 contributions will satisfactorily mitigate the impact on local services.

Therefore it is recommended that planning permission is granted.

## **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), and specification contained therein. **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 Samples of all external facing materials to be used for the construction of the development hereby permitted shall be submitted to and approved by the District Planning Authority before any construction works are commenced. Development shall be carried out in accordance with the approved details. **REASON :** To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy BE1 of the Warwick District Local Plan 2011-2029.
- 4 No development shall be carried out on the site which is the subject of this permission, until large scale details of doors, windows (including a section showing the window reveal, heads and cill details), fins, parapets, guard rails / screens and rainwater goods at a scale of 1:5 (including details of materials) have been submitted to and approved by the District Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details.  
**REASON :** For the avoidance of doubt, and to ensure a high standard of

design and appearance within the conservation area, and to satisfy Policy HE2 of the Warwick District Local Plan 2011-2029.

- 5 The development (including any works of demolition) shall proceed only in strict accordance with a construction method statement which shall have been submitted to and approved in writing by the local planning authority. The approved statement shall be strictly adhered to throughout the construction period and shall provide for: the anticipated movements of vehicles; the parking of vehicles of site operatives and visitors; the loading and unloading of plant and materials; the storage of plant and materials used in constructing the development; wheel washing facilities and other measures to ensure that any vehicle, plant or equipment leaving the application site does not carry mud or deposit other materials onto the public highway; measures to control the emission of dust and dirt during construction; measures to limit noise and disturbance; a construction phasing plan; and a HGV routing plan.  
**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, TR3 & NE5 of the Warwick District Local Plan 2011-2029.

- 6 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.

- 7 The development hereby permitted shall not commence until a scheme of noise insulation to protect residents of the development from excessive entertainment noise entering habitable rooms and the provision of quiet garden areas shielded from road traffic noise has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details and shall be retained at all times thereafter.

**REASON:** To protect residents of the development from the adverse effects of traffic and entertainment noise from outside the development in accordance with Policies BE3 & NE5 of the Warwick District Local Plan 2011-2029.

- 8 The development hereby permitted shall not commence until details of a mechanical ventilation with heat recovery (MVHR) system for all rooms within all residential dwellings has been submitted to and approved in writing by the local planning authority. The MVHR system must:

- i) be capable of providing air changes at volumes equivalent to an open window for the purposes of rapid cooling and ventilation;
- ii) not compromise the façade insulation or the resulting internal noise level; and
- iii) operate at a level to comply with noise rating curve NR25 or lower.

The scheme 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 traffic and entertainment noise from outside the development in accordance with Policies BE3 & NE5 of the Warwick District Local Plan 2011-2029.

- 9 No development shall commence until a detailed lighting scheme for the site has been submitted to and agreed in writing by the local planning authority. No lighting shall be installed other than in strict accordance with the scheme approved under this condition. The lighting shall be maintained and operated in strict accordance with the approved scheme at all times thereafter. **REASON:** To ensure that any lighting is designed so as not to detrimentally affect the amenities of the occupiers of nearby properties, in accordance with Policies BE3 & NE5 of the Warwick District Local Plan 2011-2029.

- 10 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.

11 No part of the development hereby permitted shall be commenced until a scheme for the provision of suitable bird nesting boxes to be erected on trees/buildings within the site has been submitted to and approved in writing by the local planning authority. The scheme shall include details of nesting box type, location and timing of works. Thereafter, the boxes shall be installed and maintained in perpetuity. **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.

12 The development hereby permitted shall either:

a) be timetabled and carried out to avoid the bird breeding season (March to September inclusive) to prevent possible disturbance to nesting birds; or

b) not commence until a qualified ecologist has been appointed by the applicant to inspect the trees to be cleared on site for evidence of nesting birds immediately prior to works.

If evidence of nesting birds is found works may not proceed in that area until outside of the nesting bird season (March to September inclusive) or until after the young have fledged, as advised by the ecologist. Birds can nest in many places including buildings, trees, shrubs, dense ivy, and bramble/rose scrub. Nesting birds are protected under the 1981 Wildlife and Countryside Act.

**REASON :** To prevent possible disturbance to nesting birds, in accordance with Policy NE2 of the Warwick District Local Plan 2011-2029.

13 The offices hereby permitted shall not be commenced unless and until a pre-assessment and design stage assessment by an accredited BREEAM assessor demonstrating how the offices will be designed and constructed to achieve as a minimum BREEAM standard 'very good' (or any future national equivalent) has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with the approved details. The offices shall not be occupied unless and until a completion stage assessment by an accredited BREEAM assessor demonstrating that the offices achieve as a minimum BREEAM standard 'very good' (or any future national equivalent) has been submitted to and approved in writing by the Local Planning Authority. **REASON:** To deliver reductions in carbon dioxide emissions, building running costs, energy consumption and water use in accordance with the provisions of Policy CC3 in the Warwick District Local Plan 2011-2029.

14 No construction will be undertaken until a Communications Strategy has been submitted to and approved in writing by the local planning authority. The Communications Strategy shall set out how access will be retained for surrounding occupiers during construction works and shall include the points of contact and key phases of the development. The Communications Strategy shall thereafter be implemented in strict accordance with the details approved under this condition. **REASON:** In the interests of highway safety and the amenities of surrounding

occupiers, in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.

- 15 No dwelling hereby permitted shall be occupied unless and until the car parking provision for that dwelling has been constructed or laid out and made available for use by the occupants and / or visitors to the dwelling in accordance with details that shall have been submitted to and approved in writing by the local planning authority. Thereafter those spaces shall be retained for parking purposes at all times. **REASON:** To ensure the satisfactory provision of off-street vehicle parking facilities in accordance with the local planning authority's standards and in the interests of highway safety and the satisfactory development of the site in accordance with Policies BE1 and TR4 of the Warwick District Local Plan 2011-2029.
- 16 Notwithstanding the submitted details, no development or other operations (including demolition, site clearance or other preparatory works) shall be commenced unless and until adequate steps, which shall have been previously submitted to and approved in writing by the local planning authority, have been taken to safeguard against damage or injury during construction works (in accordance with Clause 7 of British Standard BS5837 – 2012 Trees in Relation to Design, Demolition & Construction) to all tree(s) to be retained on the site, or those tree(s) whose root structure may extend within the site. In particular no excavations, site works, trenches or channels shall be cut or pipes or services laid, no fires shall be lit within 10 metres of the nearest point of the canopy of any retained tree(s); no equipment, machinery or structure shall be attached to or supported by any retained tree(s); no mixing of cement or use of other contaminating materials or substances shall take place within, or close enough to, a root protection area that seepage or displacement could cause them to enter a root protection area, or any other works be carried out in such a way as to cause damage or injury to the tree(s) by interference with their root structure and no soil or waste shall be deposited on the land in such a position as to be likely to cause damage or injury to the tree(s). **REASON:** To protect those trees which are of significant amenity value to the area and which would provide an enhanced standard of appearance to the development in accordance with Policy NE4 of the Warwick District Local Plan 2011-2029.
- 17 The development hereby permitted shall only be undertaken in strict accordance with details of both hard and soft landscaping works which shall have been submitted to and approved in writing by the local planning authority. Details of hard landscaping works shall include boundary treatment, including full details of the proposed boundary walls, railings and gates to be erected, specifying the colour of the railings, fences and gates; footpaths; and hard surfacing which shall be made of porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area. The hard landscaping works shall be completed in full accordance with the approved details within three months of the first occupation of the dwellings hereby permitted; and all planting shall be carried out in accordance with the approved details in the first planting and seeding seasons following the first occupation. 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 protect and enhance the amenities of the area, and to satisfy the requirements of Policies BE1 and NE4 of the Warwick District Local Plan 2011-2029.

- 18 The existing tree(s) and shrub(s) indicated on the approved plans to be retained shall not be cut down, grubbed out, topped, lopped or uprooted without the written consent of the local planning authority. Any tree(s) or shrub(s) removed without such consent or dying, or being severely damaged or diseased or becomes, in the opinion of the local planning authority, seriously damaged or defective, within five years from the substantial completion of development shall be replaced, as soon as practicable with tree(s) and shrub(s) of such size and species details of which must be submitted to and approved by the local planning authority. All 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 (excluding hard surfaces). **REASON** : To protect and enhance the amenities of the area, and to satisfy the requirements of Policies BE1 and NE4 of the Warwick District Local Plan 2011-2029.
- 19 The development hereby permitted shall not be occupied unless and until the means of access to the site has been laid out, constructed and implemented in full accordance with drawing no. 38900-5501-103 Rev A. **REASON**: In the interests of highway safety and the free flow of traffic in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.
- 20 The car park hereby permitted shall not be used unless and until a Parking Management Strategy has been submitted to and approved in writing by the local planning authority. The Parking Management Strategy shall thereafter be implemented in strict accordance with the details approved under this condition. Within 12 months of the first use of the car park the Parking Management Strategy shall be revised and submitted to and approved in writing by the local planning authority. The revised Parking Management Strategy shall thereafter be implemented in strict accordance with the details approved under this condition. **REASON**: In the interests of highway safety and the free flow of traffic in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.
- 21 Prior to occupation of the offices hereby permitted a Workplace Travel Plan shall be submitted to and approved in writing by the local planning authority. The Workplace Travel Plan shall thereafter be implemented in strict accordance with the details approved under this condition and shall be revised annually thereafter. **REASON**: In the interest of encouraging the use of alternative modes of transport with the aim of

creating a more sustainable development in accordance with Policies TR1 and TR2 of the Warwick District Local Plan 2011-2029.

- 22 None of the apartments 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, in accordance with Policies BE1 & BE3 of the Warwick District Local Plan 2011-2029.
- 23 All rainwater goods for the development hereby permitted shall be metal. **REASON** : To ensure an appropriate standard of design and appearance within the Conservation Area, and to satisfy Policy HE2 of the Warwick District Local Plan 2011-2029.
- 24 The development hereby permitted shall not be occupied until a scheme which satisfies the requirements set out in the Council's adopted Low Emission Strategy Guidance for Developers (April 2014) has been submitted to and approved in writing by the Local Planning Authority and implemented in full accordance with the approved details. The approved scheme shall be retained and maintained as such 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.
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**Application No:** [W 17 / 1701](#)

**Town/Parish Council:** Leamington Spa

**Case Officer:** Rob Young

01926 456535 [rob.young@warwickdc.gov.uk](mailto:rob.young@warwickdc.gov.uk)

**Registration Date:** 18/09/17

**Expiry Date:** 18/12/17

**Riverside House, Milverton Hill, Leamington Spa, CV32 5HZ**

Outline planning application including access and landscape, with all other matters reserved, for the demolition of Riverside House and the redevelopment of the site to provide new buildings ranging from 2.5 to 6 storeys for up to 170 residential dwellings (use class C3) at Milverton Hill, Leamington-Spa. FOR PSP  
Warwick LLP

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This application is being presented to Committee due to the number of objections and an objection from the Town Council having been received, due to the Council being the owner of the site and a joint applicant, and because it is recommended that planning permission is granted subject to the completion of a legal agreement.

This application forms part of the Council's headquarters relocation scheme. Therefore it is linked financially to the planning application for the new offices, car park and apartments at Covent Garden (Ref. W17/1700). That scheme is dependent on cross-subsidy from the proposed residential development on the Riverside House site.

**RECOMMENDATION**

Planning Committee are recommended to GRANT planning permission, subject to conditions and subject to the completion of a satisfactory section 106 agreement. Should a satisfactory Section 106 Agreement not have been completed by 18 January 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 that are the subject of that agreement.

**DETAILS OF THE DEVELOPMENT**

This is an outline application for the erection of up to 170 dwellings (Use Class C3). Details of access and landscaping are included in the application, with all other detailed matters reserved.

Indicative plans have been provided which show build zones and heights of buildings that could accommodate 170 dwellings. These indicate buildings ranging between 2.5 and 6 storeys in height. This includes 4 storey development along Milverton Hill, with some 5 storey elements in an attic storey set back from the main facade. As the site slopes down from the Milverton Hill boundary, the indicative height steps up to 5 and 6 storeys. The 6 storey element is restricted to the centre of the site, well away from the boundaries.

The lower areas of the site that fall within Flood Zones 2 and 3 are indicated to be used for car parking. Further parking is shown along the access road and between the buildings on the site frontage.

A new vehicular access is proposed from Milverton Hill, with the two existing accesses to be closed off. The new access will require the removal of two of the copper beach trees in the pavement on Milverton Hill. Three new trees are proposed to be planted nearby within the site boundary to replace these. Further trees are proposed to be removed within the site.

## **THE SITE AND ITS LOCATION**

The application relates to the site of the existing Warwick District Council offices. The site is situated within a predominantly residential area to the west of Leamington Town Centre. The site is bounded by Milverton Hill to the north, with the rear elevations of dwellings in Church Hill and the front elevation of a house in Portland Place West facing the site from the opposite side of that street. To the east the site is bounded by a terrace of Grade II listed buildings in Portland Place West (in residential use) and the Adelaide Road car park and adjacent club premises. The Riverside Walk and associated woodland alongside the River Leam adjoins the site to the south. A further public footpath runs along the western boundary of the site, and on the opposite side of this are the flats in Milverton Court and a house in Wilhelmina Close.

The existing office building is situated in the north-western quadrant of the site, fronting onto Milverton Hill. This ranges between 2 and 4 storeys in height. The remainder of the site is used for car parking. There are two vehicular accesses into the site from Milverton Hill and a further access from the Adelaide Road car park.

The southern part of the site is situated within Flood Zones 2 and 3, which cover between a third and half of the site. A culverted watercourse runs under the existing car park, from Milverton Hill down to the River Leam. There are a large number of trees on the site. The more significant of these are protected by a Tree Preservation Order. In addition there are some significant street trees in front of the site on Milverton Hill.

The south-eastern corner of the site is situated within the Leamington Spa Conservation Area. This takes in a triangular section of the site that measures approximately 20m x 30m x 35m. The conservation area boundary then runs along the northern, eastern and southern boundaries of the site, such that much of the rest of the site immediately abuts the conservation area.

Victoria Park is situated to the south of the site, on the opposite side of the River Leam. This forms part of a Grade II Registered Park and Garden (Spa Gardens). The boundary of the Registered Park and Garden runs along the northern bank of the river, which is approximately 25m to the south of the site.

## **PLANNING HISTORY**

There have been a number of previous planning applications relating to the application site, mostly for minor developments associated with the offices. However, none of these are relevant to the consideration of the current proposals for residential development.

## **RELEVANT POLICIES**

- National Planning Policy Framework
- DS1 - Supporting Prosperity (Warwick District Local Plan 2011-2029)
- DS2 - Providing the Homes the District Needs (Warwick District Local Plan 2011-2029)
- DS3 - Supporting Sustainable Communities (Warwick District Local Plan 2011-2029)
- DS4 - Spatial Strategy (Warwick District Local Plan 2011-2029)
- DS5 - Presumption in Favour of Sustainable Development (Warwick District Local Plan 2011-2029)
- DS11 - Allocated Housing Sites (Warwick District Local Plan 2011-2029)
- PC0 - Prosperous Communities (Warwick District Local Plan 2011-2029)
- EC3 - Protecting Employment Land and Buildings (Warwick District Local Plan 2011-2029)
- H0 - Housing (Warwick District Local Plan 2011-2029)
- H1 - Directing New Housing (Warwick District Local Plan 2011-2029)
- H2 - Affordable Housing (Warwick District Local Plan 2011-2029)
- H4 - Securing a Mix of Housing (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)
- TR2 - Traffic generation (Warwick 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)
- FW1 - Development in Areas at Risk of Flooding (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)
- HE1 - Protection of Statutory Heritage Assets (Warwick District Local Plan 2011-2029)
- HE2 - Protection of Conservation Areas (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)
- NE4 - Landscape (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)
- DM2 - Assessing Viability (Warwick District Local Plan 2011-2029)

- Open Space (Supplementary Planning Document - June 2009)
- Affordable Housing (Supplementary Planning Document - January 2008)
- Residential Design Guide (Supplementary Planning Guidance - April 2008)
- Distance Separation (Supplementary Planning Guidance)
- The 45 Degree Guideline (Supplementary Planning Guidance)
- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Vehicle Parking Standards (Supplementary Planning Document)

## **SUMMARY OF REPRESENTATIONS**

**Town Council:** Object on the following grounds:

- the development does not make any provision for affordable housing, contrary to Local Plan Policy H2;
- the integration of affordable homes into this development would encourage inclusive and mixed communities as recommended in Policy H2;
- any new residential development should be no higher than the existing Riverside House building where it would front onto Milverton Hill; and
- lack of green amenity space for future residents on the site.

**Public response:** 63 objections have been received, raising the following concerns:

- the number of units is excessive and far more than is allocated for the site in the Local Plan;
- overdevelopment;
- excessive height;
- the building is too close to Milverton Hill;
- the buildings would be overdominant when viewed from Milverton Hill;
- the proposed buildings would dwarf the existing Riverside House building and surrounding buildings;
- the proposals do not respect the scale and proportions of surrounding buildings (4 storeys would be squeezed into the height of 3 for neighbouring buildings);
- the high density of development is not appropriate for this low density area;
- harm to the character and appearance of the area;
- harm to the setting of the adjacent conservation area;
- an outline application is not appropriate for a site surrounded by the conservation area;
- harm to the setting of adjacent listed buildings;
- the buildings should be set further away from the adjacent listed buildings;
- concerns about access for carrying out maintenance to the adjacent listed building;
- harm to the setting of the adjacent Registered Park;
- loss of trees, in particular the two substantial copper beech trees on Milverton Hill and three TPO trees within the site;
- alternative layouts that would allow for the retention of the trees have not been fully explored;
- a TPO should be made to protect the trees;
- a number of trees covered by an existing TPO have already been removed from the site;
- the tree retention and protection proposals are unrealistic;
- the building zones overlap the root protection areas;

- inaccuracies in the plans relating to the trees;
- concerns that future occupants of the development may seek to remove further trees to increase natural light;
- increased traffic congestion;
- the trip generation assumptions in the Transport Assessment are flawed;
- detrimental to highway safety;
- detrimental to pedestrian safety;
- the use of Milverton Hill by emergency vehicles will be hindered;
- no provision for improvements to cycling and walking routes;
- inadequate car parking;
- increased parking congestion on surrounding streets;
- the parking area is in the flood plain and so will be unavailable during times of flood, exacerbating parking issues on surrounding streets;
- no commitment to achieve good environmental standards for the buildings;
- harm to air quality;
- increased light pollution;
- additional street lighting would impact on residents;
- noise, dust and traffic during construction;
- noise and disturbance from the completed development;
- local services are already oversubscribed;
- loss of public recycling facilities;
- loss of employment land;
- inadequate health and education infrastructure for future residents;
- substandard separation distances;
- overbearing impact on existing residents;
- loss of outlook for adjacent dwellings;
- loss of light for adjacent dwellings;
- loss of privacy for adjacent dwellings;
- the lower part of the site is subject to flooding;
- lack of any affordable housing, contrary to the requirements of the Local Plan;
- the public consultation has been inadequate;
- alternative options for dealing with the existing Riverside House building and the Council's need to downsize their office accommodation have not been adequately explored;
- the public benefits of the relocation scheme are questionable;
- the assumptions regarding economic benefits cited in the socio-economic impact report are flawed;
- it is a concern that staff, who will theoretically benefit from the relocation, are also intimately involved with these plans;
- question the motives of Councillors and Officers in wanting to provide themselves with luxurious new offices and free reserved parking in the town centre;
- the proposals will not benefit Council Tax payers;
- the project is likely to fail and therefore the public benefits will not be realised;
- the Council are under undue pressure to grant permission for their own application;
- the economic argument for linking this scheme with the Covent Garden proposals is flawed;
- the public benefits do not outweigh the harm caused; and
- information provided by the applicant has been inaccurate and misleading.

**Cllr Knight:** Objects on the following grounds:

- complete lack of affordable housing;
- 170 dwellings is far too many;
- the bulk and height would harm the adjacent conservation area;
- inadequate parking; and
- felling of mature trees must be avoided.

**Cllr Naimo:** Objects on the following grounds:

- complete lack of affordable housing;
- lack of infrastructure and s106/CIL contributions;
- insufficient meaningful consultation prior to submission; and
- the number of dwellings far exceeds the local plan allocation - there has been no detailed narrative to justify this increase.

Requests that the viability information is made available in the public domain, or at least to all District Councillors. It is in the public interest to show transparency for this project and one way of doing that is to show the workings on the viability of the scheme, both in relation to affordable housing and S106 contributions.

**Cllr Quinney:** Objects on the following grounds:

- complete lack of affordable housing;
- lack of consideration of alternative options for the new HQ;
- private developer benefiting from a viability test associated with a Council project;
- overdevelopment;
- increase in numbers over local plan allocation;
- adverse access and congestion issues for existing and new residents;
- massing effect on neighbouring residents;
- a comprehensive impact assessment is required for development that exceeds the planned density of dwellings; and
- conflict of interest in the Council determining its own planning application.

**Matt Western MP:** Objects on the following grounds:

- at a time when significant cuts have been made to Council budgets, it is surprising that the District Council is proposing to build new purpose-built offices;
- lack of affordable housing, setting an undesirable precedent for other developers;
- these proposals ignore the likely restructuring of local Councils;
- other options need exploring, such as assets owned by the County Council, or Leamington Town Hall;
- conflict of interest in the Council determining its own planning application;
- lack of transparency regarding the financing of the deal;
- imprudent use of public money;
- investing this amount of money at a time of public sector cuts is not appropriate; and
- inadequate consultation.

**Conservation Advisory Forum:** The residential use is welcomed, but concerns were raised that the application is in outline only, when detailed schemes are required within conservation areas and the site is surrounded by the Royal Leamington Spa Conservation Area.

Detailed approval for landscaping is sought but it's not clear why the whole area within the proposed urban block fronting Milverton Hill has no landscaping shown. The setting of the river and riverside walk should also be part of the landscaping scheme.

Concerns were raised about how visible the development will be, especially the 6 storey building, from the registered park on the other side of the river.

**Environment Agency:** No objection, subject to conditions.

**Historic England:** The application is for outline consent for 170 residential units. The site massing diagram in the application gives an idea as to how this number of units might look in terms of the overall massing on the site, allowing for the large part of the site on which it is not possible to build due to flooding.

We have no issue with the principle of residential development on the site and the demolition of the existing office block will be welcome. The massing diagram provides some evidence that the topography of the site should be able to accommodate the specified number of units. The four-storey block set back from the street edge is in broad terms similar to the adjoining listed terrace. As for the six storey block towards the back of the site it sits down in the landscape due to the topography and thus avoids dominating views from the park. The mature landscaping in the valley bottom will in addition provide some screening. The final impact of the scheme will depend very strongly on the quality of design at the detailed stage of the planning.

**Warwickshire Police:** No objection. Make detailed comments regarding security at construction sites. Also request a contribution of £33,041 towards police services.

**Warwickshire Wildlife Trust:** Request clarification on which trees are deemed to have low potential for roosting bats. Also request that opportunities are taken to secure biodiversity enhancements.

**South Warwickshire Clinical Commissioning Group:** Request a contribution of £171,360 towards primary healthcare.

**South Warwickshire NHS Foundation Trust:** Request a contribution of £176,794.09 towards acute and community healthcare.

**WCC Fire & Rescue:** No objection, subject to a condition to require details of water supplies and fire hydrants.

**WCC Ecology:** No objection, subject to conditions, although raise concerns about the loss of the copper beech trees.

**WCC Archaeology:** No comment.

**WCC Infrastructure:** Request contributions of £12,750 towards sustainable travel packs, £3,721 towards libraries, £216,000 towards bus stop improvements and £1,393,353 towards education.

**WCC Flood Risk Management:** No objection, subject to a condition to require drainage details.

**WCC Landscape:** No objection, following the receipt of amended plans.

**WCC Public Health:** Recommend that consideration is given to their Public Health Evidence for Planners and Developers guidance document throughout the design stages of this development.

**WCC Highways:** No objection, subject to conditions and section 106 requirements.

**WCC Forestry:** Neither object nor support, but request that certain matters are taken into account in relation to the protection of the retained highway trees and the replacement of the highway trees that are to be removed.

**WDC Tree Officer:** No objection. Accepts the overall conclusions and protection measures specified in the arboricultural report submitted by the applicant. Makes some detailed recommendations in relation to certain technical aspects of the report.

**WDC Green Space:** Request a contribution of £44,768 towards the provision or enhancement of public open space.

**WDC Waste Management:** No objection.

**WDC Cultural Services:** Request a contribution of £151,512 towards indoor sports facilities and £10,955 towards outdoor sports facilities.

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

**WDC Housing Strategy:** Set out the Council's standard requirements in relation to affordable housing. However, note that a viability assessment has been submitted which may negate the ability to deliver affordable housing.

## **ASSESSMENT**

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

- the principle of development;
- public benefits;
- whether it is appropriate to permit more dwellings than the Local Plan allocation;
- the impact on the living conditions of nearby dwellings;
- provision of a satisfactory living environment for future occupants;
- the impact on the character and appearance of the conservation area and the setting of nearby listed buildings;
- car parking and highway safety;
- landscaping and impact on trees;
- drainage and flood risk;
- ecological impact;
- mix of market housing;
- provision for affordable housing;



- section 106 contributions; and
- health and wellbeing.

### Principle of development

The site comprises employment land which would ordinarily be protected for employment use under Local Plan Policy EC3. However, this particular employment site has been allocated for housing by Local Plan Policy DS11. This is reflected in para. 3.33 of the explanatory text to Policy EC3, which notes that certain employment sites have been reallocated to residential use. Therefore a residential development is considered to be acceptable in principle on this site.

### Public benefits

A number of objectors have questioned whether the scheme would generate the benefits that have been suggested by the applicant. However, it is clear that the relocation scheme as a whole would generate a number of significant public benefits. This includes the provision of a new multi-storey car park to replace an existing car park with major structural defects. In addition there would be significant public benefits associated with the new Council offices, including cost savings for the Council, which would ultimately benefit local people through avoiding the need to cut services. Furthermore, the offices and apartments would generate footfall and spending in the town centre, including relocating 300+ Council employees into the town centre. The offices will also provide a better working environment for Council staff, Councillors and visiting members of the public.

The proposals will provide a substantial amount of housing, both on the Riverside House site (170 units) and the Covent Garden site (44 units). Then there are all of the usual economic benefits associated with a major construction project (construction jobs, contracts for local companies etc.).

Altogether, the public benefits of the scheme are considerable. In the planning balance that must be struck in the assessment of this application, these benefits weigh heavily in favour of granting permission.

### Whether it is appropriate to permit more dwellings than the Local Plan allocation

This is an allocated housing site in the Local Plan. Objectors have raised concerns about the number of dwellings exceeding the allocation. The Local Plan indicates 100 dwellings, whereas the application is for 170. However, the numbers provided in the Local Plan for allocated sites are not maximums. Any planning application must be considered on its merits and can only be refused permission if the number of dwellings proposed results in a harmful impact that would justify a refusal.

Where an applicant proposes more dwellings than the allocation, it is expected that they will submit supporting information with the application to demonstrate that this increase in numbers would not cause harmful effects that would justify a refusal of planning permission. In this case it is considered that the applicant has submitted sufficient information to justify the increase in numbers. This includes the following supporting reports that have relevance to an assessment of the impact of increased numbers: Air Quality Assessment, Arboricultural

Impact Assessment, Design & Access Statement, Ecological Assessment, Flood Risk Assessment, Heritage Statement, Townscape & Visual Appraisal, Transport Assessment, Utility Survey and Viability Appraisal.

The impact of the numbers proposed is considered in detail against the various headings that follow in this report. With the exception of the impact on a small number of trees, the increase in dwellings does not give rise to any harmful effects that would weigh against the proposals in the planning balance. The impact on trees is considered in more detail in the relevant section below.

#### Impact on the living conditions of nearby dwellings

The indicative plans suggest that the separation distances to some nearby dwellings may be less than the minimums specified in the Council's Distance Separation Guidelines. The separation distance from the closest dwellings on the opposite side of Milverton Hill and Portland Place West is indicated as 20m, which is less than the 32m set out in the Guidelines. However, the Guidelines state that, within conservation areas, where the overriding need is to preserve or enhance the character or appearance of the area, the provisions of the guidance will not be directly applied. This exemption is applicable to the situation on Milverton Hill / Portland Place West, because setting the development back to comply with the Guidelines would be contrary to the historic pattern of development in the area (i.e. the adjacent buildings on the southern side of Portland Place West being positioned at the back of the pavement). Furthermore, in the circumstances it is considered appropriate to have a reduced separation distance across a public street which already causes some reduction in privacy.

The separation distance to the windows in the side elevation of Milverton Court to the west of the site would also be 20m. Whilst there is no minimum distance set out in the Guidelines for a side-to-side relationship, it is considered appropriate to impose some restrictions on windows in this part of the development so as to preserve adequate privacy. This would be a matter to be considered at reserved matters stage. For the purposes of considering this outline application, it is evident that there is sufficient scope for this to be addressed in a detailed design by mitigation measures such as obscure glazing or angled windows.

With regard to the adjacent dwellings in Portland Place West, the indicative proposals show that the 45-Degree Guideline and the Distance Separation Guidelines can be complied with in relation to the windows in the front and rear elevations of those properties. Adequate separation can also be provided from the hallway windows in the side of those properties.

For the above reasons, having regard to the indicative height of the proposed buildings and the separation distances shown, it has been concluded that 170 dwellings can be accommodated on the site without causing unacceptable loss of light, loss of outlook or loss of privacy for neighbouring dwellings.

There has been no objection from Environmental Health and therefore, subject to appropriate conditions, it has been concluded that the proposals will not give rise to any other harmful effects on nearby dwellings, including noise or lighting issues.

Having regard to all of the above factors, it has been concluded that the proposals will have an acceptable impact on the living conditions of nearby dwellings.

#### Provision of a satisfactory living environment for future occupants

The indicative plans show that 170 dwellings can be accommodated on the site whilst maintaining adequate separation between facing windows within the development. The plans also show that suitable amenity space can be provided. Environmental Health have advised that, subject to an appropriate mitigation scheme which can be required by condition, the proposed dwellings will not suffer undue noise. Therefore it has been concluded that the proposals will provide a satisfactory living environment for future occupants.

#### Impact on the character and appearance of the conservation area and the setting of nearby listed buildings

A rear corner of the site is situated within the Leamington Spa Conservation Area. Perhaps more importantly, much of the remainder of the site adjoins the boundary of the conservation area and therefore any development on the site has the potential to impact on the setting of the conservation area. There are other significant heritage assets close to the site, including the Grade II listed terrace to the east and the Grade II Registered Park and Garden (Spa Gardens) to the south. Development on the application site also has the potential to impact on the setting of these heritage assets.

In heritage terms, the significance of this part of conservation area derives principally from the historic street pattern and the Regency and Victorian buildings that front onto surrounding streets. The significance of the adjacent listed buildings derives principally from them being good examples of Regency architecture. The significance of the Spa Gardens relates to it forming a linked series of gardens and parks running through the centre of the conservation area which were laid out as part of the historic development of the town. The part opposite the application site (Victoria Park) was created in the late 19th Century and its significance is contributed to by the open spaces and trees within and adjacent to the park, and the riverside setting.

The starting point for an assessment of the heritage impact of the proposals is the current state of the site. The current development on the site is not in keeping with the character and appearance of the conservation area or the layout and design of adjacent listed buildings. Negative factors in this regard include the incongruous design of the existing building, with the form and design details being more appropriate for a modern business park than an area of Regency / Victorian development. Another negative factor is the siting of the existing building, which being set back from the street frontage and with a large open car park to the side is at odds with the traditional pattern of buildings close to the back of the pavement without any significant breaks in the built up frontage. A further negative factor is the non-traditional brown brick that was used for the construction of the building and also the substantial wall that runs the length of the Milverton Hill frontage. This is at odds with the traditional red brick and render that is evident on surrounding historic buildings.

In contrast, the indicative plans show a more traditional pattern of development with buildings situated close to the pavement with no significant breaks in the

built up frontage. This better reflects the positioning of the adjacent listed buildings in Portland Place West.

The scale and massing of the development indicated along the Milverton Hill frontage reflects that of the adjacent listed buildings in Portland Place West. Where the height of the proposed development steps up, this is on parts of the site that are well away from the listed buildings or the boundaries of the conservation area. Furthermore, the height steps up as the ground level falls away towards the river and this will limit the prominence of the higher parts of the development when viewed from Milverton Hill and the adjacent listed buildings.

Historically the site was developed as a series of detached villas, a pattern of development that is still evident to the west of the site along the southern side of Warwick New Road. Notably those surviving villas have all had more intensive development infilling their grounds in modern times. Most of these sites are within the conservation area. In this context, the more intensive development now proposed for the application site would not appear out of place.

Much will depend on the detailed design and layout of the scheme, which will not be known until reserved matters stage. In this regard it is notable that Historic England are happy that any issues can be resolved at that stage. The judgement that must be made at this outline stage is whether, in principle, the site can accommodate 170 dwellings in some form that would not harm the conservation area.

Drawing all of the above considerations together, in a context where the existing development on the site detracts from the setting of the conservation area, the conclusion is that the site can accommodate a development of 170 dwellings in a manner that would have at least a neutral impact on the setting of the conservation area.

Similar considerations apply to the assessment of the impact on the setting of the listed buildings. These are town houses that form part of the more intensive phase in the historical development of the town. If this pattern of development had continued at the time it would have been in the form of a similarly intensive terrace of town houses, either close to or adjoining the side elevation of the end property. The indicative plans show that this could be reflected on the application site with town houses of a similar scale alongside that boundary. The indicative plans also show that the taller parts of the development can be sited far enough away from the listed buildings to ensure that they would not adversely affect the setting. All things considered, it has been concluded that the site can accommodate a development of 170 dwellings in a form that would not harm the setting of the adjacent listed buildings.

In terms of views from Victoria Park, these are filtered by the extensive tree cover between the site and the river. Whilst the buildings would be visible from the Park, this would be at some distance and mitigated by the trees, and as such it is not considered that the proposals would have a harmful impact on the setting of the Spa Gardens Registered Park and Garden.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty to ensure that new development preserves or enhances the character and appearance of conservation areas. Meanwhile, for development

affecting the setting of a listed building, Section 66 imposes a statutory duty to have special regard to the desirability of preserving the setting. For the reasons stated above, in the context of the negative impact of the development that exists on the site at present, it has been concluded that the proposals would preserve the character and appearance of the conservation area and the setting of the listed buildings. The proposals would also preserve the setting of the Spa Gardens Registered Park and Garden. For these reasons the proposals would accord with the NPPF and Local Plan Policies HE1 and HE2.

#### Car parking and highway safety

The Highway Authority initially raised concerns about the supporting information that was submitted in relation to the new access. The applicant has submitted further information in response and the Highway Authority have confirmed that this has addressed their concerns. As a result, having undertaking a full assessment of the highway impact of the proposals, the Highway Authority raise no objection to the application.

The Highway Authority advise that the proposals will lead to a net reduction in trips to and from the site when compared with the existing use as offices. As a result, they advise that the development will have a negligible impact on the operation of the highway network. The Highway Authority also confirm that the new access is acceptable and will be provided with adequate visibility splays.

Objectors have requested improvements to cycling and walking routes. However, there has been no request for anything in this regard from the Highway Authority. They note that the site is located in a highly accessible area close to Leamington Town Centre and in close walking distance to high quality bus services and Leamington Railway Station. As the site already benefits from a good degree of accessibility by cycling and walking, it is not considered necessary to require any further improvements as a condition of this scheme.

With regard to parking, a total of 187 spaces are indicated on the plans, which comprises the parking areas within the flood plain on the southern part of the site and spaces along the proposed access road. The applicant also advises that a further 60 space could be provided in an area of below deck parking within the space between the main buildings shown on the indicative plan. This would amount to a total of 247 spaces, which would be more than enough to comply with the Council's Parking Standards (for example 230 spaces would be required for a mix of 50 x 1 bedroom and 120 x 2 bedroom dwellings). Whilst a proportion of these spaces would be unavailable at times when the site is flooded, this would be an infrequent occurrence (this has happened twice in the 17 years that the Council have occupied the site).

For the above reasons it has been concluded that the proposals would have an acceptable impact on car parking and highway safety.

#### Landscaping and impact on trees

The applicant considers it necessary to relocate the vehicular access to the location shown because this is on the line of a culverted watercourse and relocated sewer that could not otherwise be built upon. Given the presence of other major constraints preventing development on other parts of the site (flood plain, TPO trees etc.), the applicant considers that not making use of the land

above the culverted watercourse would render the scheme unviable (the applicant's viability appraisal already indicates that the scheme is marginal on viability). The provision of the access in this location is the only way of making use of this part of the site without further reducing the areas that can be built upon.

A consequence of locating the access in this position is that two of the large copper beech trees in the pavement on Milverton Hill will have to be removed. This is a significant cause for concern in the consultation responses that have been received. These trees are situated within the conservation area and make a positive contribution to the character and appearance of the area. However, there are health issues with the trees which will limit their longevity.

In the present financial climate it is perhaps unlikely that the County Council would have the resources to plant replacements when these trees reach the end of their life. Indeed, historical information suggests that there was originally a line of 7 trees along the southern side of Milverton Hill, but this has already been reduced to 5 due to replacements not being planted. Furthermore the applicant has proposed mitigation measures including the planting of 3 trees within the site, close to the position of the trees that are to be removed, together with a contribution of £30,000 towards the planting of replacement street trees in the locality. Nevertheless there would still be an overall negative impact due to the loss of these trees, but this would have to be weighed against the public benefits of the overall relocation scheme.

The public benefits of the scheme have been outlined in a preceding section of this report. Altogether, the public benefits are considerable. In the planning balance these benefits weigh heavily in favour of granting permission. As a result it has been judged that the combined public benefits of the Riverside House and Covent Garden schemes outweigh the harm that would be caused by the removal of these two trees.

Turning to the loss of other trees within the site, these are less significant than the copper beech trees. All of the more important trees within the site are proposed to be retained, and these are already covered by a Tree Preservation Order. When viewed from surrounding roads and footpaths, the retained and proposed planting within the site will ensure that the site retains a heavily landscaped character.

The amendments to the landscaping proposals have addressed issues that were raised by WCC Landscape. Full details of landscaping within the site, between the buildings, will be considered as part of a future reserved matters submission.

The existing Tree Preservation Order is now quite dated and includes some inaccuracies and so it is proposed that a new Order is made to correct these inaccuracies and to include the remaining copper beech trees on Milverton Hill and the replacement trees to be planted within the site.

Discussions are ongoing with the applicant about the details of the Arboricultural Impact Assessment and tree protection measures. This relates to the impact of the development on trees to be retained within the site and on the copper beech trees that are to be retained on Milverton Hill. An update on this issue will be provided in the addendum report to Committee.

### Drainage and flood risk

The lower parts of the site are situated within Flood Zones 2 and 3. However, the proposed buildings can be accommodated on land that is outside of this area. The Environment Agency have accepted that the area at risk of flooding can be used to provide car parking for the dwellings, as is the case with the current office parking. This would be subject to a Management Plan to ensure that the cars are removed at times of flood.

In terms of drainage, there has been no objection from WCC Flood Risk Management, subject to a condition to require drainage details.

### Ecological impact

Bat surveys have recorded roosts of common pipistrelle and brown long-eared bats within the existing Riverside House building. The bat survey report includes details of mitigation measures, including the installation of bat boxes on trees within the site and on the new buildings. The County Ecologist has accepted the proposed mitigation measures. Subject to the implementation of these measures it has been concluded that the proposals would have an acceptable impact on bats.

The site is situated adjacent to the River Leam, which is a potential Local Wildlife Site and Ecosite. The County Ecologist has considered the impact of the proposals on other notable and protected species and the impact on biodiversity, including the relationship with adjacent designated ecological sites. They have recommended conditions to require the submission of a Construction and Environmental Management Plan and an Ecological and Landscaping Scheme. Subject to the mitigation measures that will be secured by these conditions, it has been concluded that the proposals would have an acceptable ecological impact. Whilst the County Ecologist would prefer that the copper beech trees are retained, it is considered that the ecological impact of the loss of these trees can be mitigated by replacement planting and ecological enhancement measures within the site.

Additional information has been submitted to address the request from Warwickshire Wildlife Trust for the identification of the trees that have low potential for roosting bats. Furthermore, the condition requiring an Ecological and Landscaping Scheme will address their comments about securing biodiversity enhancements.

### Mix of market housing

Local Plan Policy H4 requires proposals to include a mix of market housing that contributes towards a balance of house types and sizes across the district, including the housing needs of different age groups, in accordance with the latest Strategic Housing Market Assessment (SHMA). As this is an outline planning application, the mix of housing is not known at present. However, if any reserved matters application were to include the maximum number of units proposed (170), it is clear that this would have to comprise predominantly 1 and 2 bedroom flats. This would not meet the requirements of the SHMA. However, Policy H4 accepts that these requirements may not be suitable on all sites and lists a range of circumstances where it might not be appropriate to provide the full range of housing types and sizes.

The proposals are considered to meet criterion (c). This refers to sites with severe development constraints where housing mix may impact on viability. There are a number of severe development constraints affecting the application site, including large parts of the site falling within Flood Zones 2 and 3 as well as a culverted watercourse and sewer running through the site. There are also a large number of trees on the site, including a number covered by a Tree Preservation Order. Some of these protected trees are very large and sterilise large parts of the site. In addition, on the issue of viability, it has been demonstrated that a development of this density is necessary to cross-subsidise the new Council offices at Covent Garden.

For these reasons it has been judged that the proposals provide an appropriate mix of market housing in light of the constraints affecting this site. Therefore the proposals do not conflict with Local Plan Policy H4.

Provision for housing for the elderly and disabled has also been considered. However, the same issues considered in the assessment of the general mix of market housing above also apply to the provision of these more specialist forms of housing. Therefore it is not considered appropriate to impose any specific requirements in this regard in relation to the current planning application.

#### Provision for affordable housing

The applicant has submitted a viability appraisal to demonstrate that the provision of any affordable housing on the site would render the scheme unviable. This assumes that the Riverside House development is linked to the scheme for new Council offices and a new multi-storey car park on the Covent Garden site (application no. W17/1700). The development on the Riverside House site would cross-subsidise the new offices and car park, which would otherwise be unviable.

The applicant's viability appraisal has been independently verified by the local planning authority's surveyors, Jones Lang Lasalle. They have undertaken a robust assessment of the applicant's appraisal and have confirmed that they are in agreement that the provision of any affordable housing on the Riverside House site would render the relocation scheme unviable.

Objectors have raised concerns about the setting of an undesirable precedent that will make it harder for the Council to require developers to provide affordable housing on other sites. However, the circumstances in this case are unique and will not be replicated on any other scheme. As a result there is no danger of a precedent being set. In any case, each planning application must be determined on its own merits; decisions on planning applications do not work on the basis of precedent.

The applicant has advised that their viability appraisal is commercially sensitive and therefore must not be made publicly available. As a result a copy of this information will be forwarded to Members of the Planning Committee in confidence. Similarly the Jones Lang Lasalle report is also commercially sensitive and therefore will be dealt with in the same manner (i.e. disclosed only to Members of the Planning Committee).



It has been suggested that this information should be disseminated more widely, at least to all Members of the District Council, as it relates to a Council project. However, this would be treating the current application differently to all other applications where viability information is provided. Legal advice has been sought on this matter and this confirms that the involvement of the Council in the proposals does not mean that this information is not commercially sensitive. In any case, the proposal is a joint venture with a private sector partner and is not solely a public sector / non-commercial project.

If Members of the District Council wish to seek the release of this information on the basis that this is a Council project, then this should be pursued with the District Council as a corporate body outside of the planning system. It is important that the local planning authority approaches this manner in the same way that it does all planning applications.

### Section 106 contributions

Members will be aware that CIL came into effect on 18 December and the scheme will be liable for this. There have also been separate requests for section 106 contributions from various consultees, as detailed in the Summary of Representations section of this report. However, the viability appraisal that the applicant has submitted demonstrates that there is no surplus in the scheme to pay for CIL or S106 contributions, other than the site specific matters relating to sustainable travel packs (£3,000) and replacement street trees (£30,000).

There will also be a clause in the section 106 agreement to tie the development on the Riverside House site to the provision of the car park and Council offices on the Covent Garden site. This is necessary because the development on the Riverside House site would be able to provide affordable housing, but for the fact that it is cross-subsidising the Covent Garden development.

It is considered that the above section 106 provisions meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations, i.e. they are considered necessary to make the development acceptable in planning terms, they are directly related to the development, and they are fairly and reasonably related to the development in scale and kind. Furthermore the pooling restrictions in Regulation 123 are not breached.

### Health and wellbeing

The proposals do not raise any specific issues relating to health and wellbeing.

### Other matters

Objectors have raised concerns about the loss of public recycling facilities from the application site. However, the applicant advises that there is a surplus of this type of recycling site in the locality. Furthermore, this site is only open office hours and this limits its usefulness as a domestic recycling facility. It is also of note that there has been no objection from the Council's Waste Management team, who have responsibility for domestic recycling.

A condition is recommended to require the submission of a Construction Management Plan. This will address concerns that residents have raised regarding noise and dust during construction.

A condition is recommended to require the submission and implementation of a low emissions strategy. This will provide adequate mitigation for the impact of the proposals on air quality.

A condition is recommended to require a contamination assessment, in accordance with the comments of Environmental Health. This will provide adequate control over any potential contamination issues.

Objectors have raised concerns about access for maintenance to the side elevation of the adjacent listed building. However, the indicative plans show that space can be retained for maintenance access alongside that boundary.

## **SUMMARY / CONCLUSION**

The redevelopment of this site for residential purposes is in accordance with the allocation of the site for housing by Local Plan Policy DS11 and is therefore acceptable in principle. The proposals form part of the Council's office relocation scheme which would generate substantial public benefits.

The proposals would have an acceptable impact on the living conditions of neighbouring dwellings and would provide a satisfactory living environment for future occupants. Furthermore, the proposals would have an acceptable impact on the setting of the adjacent conservation area, listed buildings and registered park. The proposals are also considered to be acceptable in terms of car parking, highway safety, drainage / flood risk and ecological impact.

The loss of the two copper beech trees would be a harmful impact of the development, but this would be mitigated to some extent by the replacement tree planting and the contribution towards street tree planting. Any residual harm in this regard would be outweighed by the substantial public benefits of the relocation scheme. In terms of trees within the site, the impact of the proposals is considered to be acceptable.

A likely mix of housing comprising predominantly 1 and 2 bedroom flats is considered appropriate given the significant constraints affecting this site. With regard to affordable housing, evidence has been submitted to demonstrate that this would render the scheme unviable. Finally, the proposed section 106 contributions will satisfactorily mitigate the impact on local services.

Therefore it is recommended that planning permission is granted.

## **CONDITIONS**

- 1 Details of the appearance of the building(s), layout of the site and its relationship with adjoining development, and the scale of building(s) (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out in full accordance with these reserved matters as approved. **REASON:** To comply with Article 4(1) of the Town and Country Planning (Development Management Procedure) Order 2015 (as amended).

- 2 Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission. **REASON:** To comply with Section 92 of the Town and Country Planning Act 1990 (as amended).
- 3 The development to which this permission relates shall begin within three years of the date of this permission or within two years of the final approval of the reserved matters, whichever is the later.  
**REASON:** To comply with Section 92 of the Town and Country Planning Act 1990 (as amended).
- 4 The development (including any works of demolition) shall proceed only in strict accordance with a construction method statement which shall have been submitted to and approved in writing by the local planning authority. The approved statement shall be strictly adhered to throughout the construction period and shall provide for: the anticipated movements of vehicles; the parking of vehicles of site operatives and visitors; the loading and unloading of plant and materials; the storage of plant and materials used in constructing the development; wheel washing facilities and other measures to ensure that any vehicle, plant or equipment leaving the application site does not carry mud or deposit other materials onto the public highway; measures to control the emission of dust and dirt during construction; measures to limit noise and disturbance; a construction phasing plan; and a HGV routing plan.  
**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, TR3 & NE5 of the Warwick District Local Plan 2011-2029.
- 5 The development hereby permitted shall not commence until a scheme of noise insulation to protect residents of the development from excessive road traffic noise entering habitable rooms and the provision of quiet garden areas shielded from road traffic noise has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details and shall be retained at all times thereafter. **REASON:** To protect residents of the development from the adverse effects of traffic noise from outside the development in accordance with Policies BE3 & NE5 of the Warwick District Local Plan 2011-2029.
- 6 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.

- 7 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.
- 8 The development hereby permitted shall not be commenced until a scheme for the provision of adequate water supplies and fire hydrants, necessary for fire fighting purposes at the site, has been submitted to and approved in writing by the District Planning Authority. The development shall not then be occupied until the scheme has been implemented to the satisfaction of the District Planning Authority.  
**REASON :** In the interests of fire safety.
- 9 No construction will be undertaken until a Communications Strategy has been submitted to and approved in writing by the local planning authority. The Communications Strategy shall set out how access will be retained for surrounding occupiers during construction works and shall include the points of contact and key phases of the development. The Communications Strategy shall thereafter be implemented in strict accordance with the details approved under this condition. **REASON:** In the interests of highway safety and the amenities of surrounding occupiers, in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.
- 10 No dwelling hereby permitted shall be occupied unless and until the car parking provision for that dwelling has been constructed or laid out and made available for use by the occupants and / or visitors to the dwelling in accordance with details that shall have been submitted to and

approved in writing by the local planning authority. Thereafter those spaces shall be retained for parking purposes at all times. **REASON:** To ensure the satisfactory provision of off-street vehicle parking facilities in accordance with the local planning authority's standards and in the interests of highway safety and the satisfactory development of the site in accordance with Policies BE1 and TR4 of the Warwick District Local Plan 2011-2029.

- 11 The development hereby permitted shall be timetabled and carried out to wholly accord with the detailed mitigation measures for the safeguarding of bats within the site as set out in the document 'Bat Surveys and Bat Mitigation Strategy' prepared by Middlemarch Environmental, received by the local planning authority on 3rd October 2017. **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.
- 12 No development shall commence until a detailed lighting scheme for the site has been submitted to and agreed in writing by the local planning authority. In discharging this condition the local planning authority expects lighting to be restricted around the boundary edges, particularly along hedgerows, where protected species are likely to be found, and to be kept to a minimum at night across the whole site in order to minimise impact on emerging and foraging bats and other nocturnal wildlife. This could be achieved in the following ways:
- (a) low energy LED lighting should be used in preference to high pressure sodium or mercury lamps;
  - (b) the brightness of lights should be as low as legally possible;
  - (c) lighting should be timed to provide some dark periods; and
  - (d) connections to areas important for foraging should contain unlit stretches.

No lighting shall be installed other than in strict accordance with the scheme approved under this condition. The lighting shall be maintained and operated in strict accordance with the approved scheme at all times thereafter.

**REASON:** To ensure that any lighting is designed so as not to detrimentally affect the amenities of the occupiers of nearby properties and to ensure that appropriate measures are taken in relation to protected species in accordance with Policies BE3, NE2 & NE5 of the Warwick District Local Plan 2011-2029.

- 13 The development hereby permitted shall not commence until a detailed Landscape and Ecological Management Plan has been submitted to and approved in writing by the District Planning Authority. The plan should include details of planting and maintenance of all new planting. Details of species used and sourcing of plants should be included. The plan should also include details of habitat enhancement/creation measures and management, such as water bodies, native species planting, wildflower grasslands, woodland creation/enhancement and provision of habitat for protected species. Such approved measures shall thereafter be implemented in full. **REASON :** To ensure adequate compensation

for any loss of biodiversity, in accordance with the National Planning Policy Framework.

- 14 The development hereby permitted shall not commence until a Construction and Environmental Management Plan has been submitted to and approved in writing by the local planning authority. In discharging this condition the local planning authority expect to see details concerning pre-commencement checks for protected and notable species with subsequent mitigation as deemed appropriate. In addition appropriate working practices and safeguards for other wildlife dependent of further survey work, that are to be employed whilst works are taking place on site. The agreed Construction and Environmental Management Plan shall thereafter 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.
- 15 The development hereby permitted shall not be occupied until a flood risk management scheme for the car park has been submitted to and approved in writing by the local planning authority. The scheme shall include, but not be inclusive of, the following elements:
- i) the site operator signing up to the Environment Agency's flood warning system;
  - ii) a strategy to notify each household as efficiently and quickly as possible;
  - iii) actions in place to prevent car owners collecting their cars once the car park begins to flood; and
  - iv) flood warning notices to be erected with numbers, positions and wording to be agreed. The notices shall be kept legible and clear of obstruction.

The mitigation measures shall be fully implemented in strict accordance with the approved details prior to occupation and shall remain in place at all times thereafter.

**REASON :** To ensure that residents have adequate notice to retrieve their vehicles prior to the car park flooding, in accordance with Policy FW1 of the Warwick District Local Plan 2011-2029.

- 16 None of the dwellings hereby permitted shall be occupied unless and until:
- (a) details of boundary treatment along the southern boundary sufficient to prevent cars floating off site (and allowing the free flow of floodwater) have been submitted to and agreed in writing by the local planning authority; and
  - (b) the boundary treatment approved under (a) has been installed in strict accordance with the approved details.

**REASON :** To prevent cars floating off site into the River Leam and causing blockages, in accordance with Policy FW1 of the Warwick District Local Plan 2011-2029.

- 17 Notwithstanding the submitted details, no development or other operations (including demolition, site clearance or other preparatory works) shall be commenced unless and until adequate steps, which shall have been previously submitted to and approved in writing by the local planning authority, have been taken to safeguard against damage or injury during construction works (in accordance with Clause 7 of British Standard BS5837 – 2012 Trees in Relation to Design, Demolition & Construction) to all tree(s) to be retained on the site, or those tree(s) whose root structure may extend within the site. In particular no excavations, site works, trenches or channels shall be cut or pipes or services laid, no fires shall be lit within 10 metres of the nearest point of the canopy of any retained tree(s); no equipment, machinery or structure shall be attached to or supported by any retained tree(s); no mixing of cement or use of other contaminating materials or substances shall take place within, or close enough to, a root protection area that seepage or displacement could cause them to enter a root protection area, or any other works be carried out in such a way as to cause damage or injury to the tree(s) by interference with their root structure and no soil or waste shall be deposited on the land in such a position as to be likely to cause damage or injury to the tree(s). **REASON:** To protect those trees which are of significant amenity value to the area and which would provide an enhanced standard of appearance to the development in accordance with Policy NE4 of the Warwick District Local Plan 2011-2029.
- 18 The development hereby permitted shall only be undertaken in strict accordance with details of both hard and soft landscaping works which have been submitted to and approved in writing by the local planning authority. Details of hard landscaping works shall include boundary treatment, including full details of the proposed boundary walls, railings and gates to be erected, specifying the colour of the railings, fences and gates; footpaths; and hard surfacing which shall be made of porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area. The hard landscaping works shall be completed in full accordance with the approved details within three months of the first occupation of the dwellings hereby permitted; and all planting shall be carried out in accordance with the approved details in the first planting and seeding seasons following the first occupation. 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 protect and enhance the amenities of the area, and to satisfy the requirements of Policies BE1 and NE4 of the Warwick District Local Plan 2011-2029.
- 19 The trees marked T2 and T3 on drawing no. 1714-PL0-07 shall not be removed until the 3 replacement trees shown on this drawing have been planted. Any tree(s) which within a period of five years of planting

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. The trees shall be planted in accordance with British Standard BS4043 – Transplanting Root-balled Trees and BS4428 – Code of Practice for General Landscape Operations. **REASON:** In order to secure compensation for the loss of these trees, in accordance with Policies BE1 and NE1 of the Warwick District Local Plan 2011-2029.

- 20 The existing tree(s) and shrub(s) indicated on the approved plans to be retained shall not be cut down, grubbed out, topped, lopped or uprooted without the written consent of the local planning authority. Any tree(s) or shrub(s) removed without such consent or dying, or being severely damaged or diseased or becomes, in the opinion of the local planning authority, seriously damaged or defective, within five years from the substantial completion of development shall be replaced, as soon as practicable with tree(s) and shrub(s) of such size and species details of which must be submitted to and approved by the local planning authority. All 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 (excluding hard surfaces). **REASON :** To protect and enhance the amenities of the area, and to satisfy the requirements of Policies BE1 and NE4 of the Warwick District Local Plan 2011-2029.
- 21 The development hereby permitted shall not be occupied unless and until the means of access to the site has been laid out, constructed and implemented in full accordance with drawing no. 38237-5501-120. **REASON:** In the interests of highway safety and the free flow of traffic in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.
- 22 The development hereby permitted shall not be occupied until a scheme which satisfies the requirements set out in the Council's adopted Low Emission Strategy Guidance for Developers (April 2014) has been submitted to and approved in writing by the Local Planning Authority and implemented in full accordance with the approved details. The approved scheme shall be retained and maintained as such 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.
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**Planning Committee:** 09 January 2018

**Item Number:** **9**

**Application No:** [W 17 / 1828](#)

**Town/Parish Council:** Kenilworth

**Case Officer:** Ed Pigott

01926 456521 ed.pigott@warwickdc.gov.uk

**Registration Date:** 10/10/17

**Expiry Date:** 05/12/17

**121-123 Warwick Road, Kenilworth, CV8 1HP**

Change of use, conversion and extension of restaurant building (Use Class A3) with associated works to provide 6no. cluster flats providing a total of 23no. bedrooms for use as student accommodation FOR Mr JR Gill Investments Ltd

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

**DETAILS OF THE DEVELOPMENT**

The proposed development would extend the building along the Warwick Road with a parking area behind. This would facilitate the creation of six cluster flats for student accommodation providing 1 x 8 bedrooms, 1 x 5 bedrooms, 2 x 4 bedrooms and 2 x 1 bedroom. There would be 23 bedrooms in total with twenty single rooms and two shared by two people.

Along the Warwick Road, the roofline would be raised to match the adjacent property. The facing elevation would be amended, bay windows removed and two lightwells would be added.

On the Warwick Road elevation, the new section would extend the roof line along and then drop down. A gap would be left between the existing and the proposed buildings. There would be a covered access into a parking area behind where the bin storage area would also be sited.

Eight parking spaces would be provided with six of these in the parking court with another two spaces provided off Clarendon Road.

**THE SITE AND ITS LOCATION**

The application site is within Kenilworth fronting the Warwick Road and Clarendon Road. The site is a former Indian restaurant with associated parking. The site, fronting onto Clarendon Road, contains a paved area to the front with a

low retaining wall. A forward single storey extension with balcony projects beyond the building.

Fronting Warwick Road, the building extends to three stories with bay windows on the ground floor. There is a small gap between the elevation and the pavement.

There is also a tarmaced parking area to the rear of the building accessed from Warwick Road.

The site is adjacent to the Kenilworth Conservation Area.

### **PLANNING HISTORY**

W/08/1681- Erection of first floor restaurant extension to front – Refused

### **RELEVANT POLICIES**

- National Planning Policy Framework
- DS5 - Presumption in Favour of Sustainable Development (Warwick District Local Plan 2011-2029)
- H6 - Houses in Multiple Occupation and Student Accommodation (Warwick District Local Plan 2011-2029)
- 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)
- HS4 - Improvements to Open Space, Sport and Recreation Facilities (Warwick District Local Plan 2011-2029)
- FW3 - Water Conservation (Warwick District Local Plan 2011-2029)
- HE2 - Protection of Conservation Areas (Warwick District Local Plan 2011-2029)
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets (Warwick District Local Plan 2011-2029)
- NE5 - Protection of Natural Resources (Warwick District Local Plan 2011-2029)
- NE3 - Biodiversity (Warwick District Local Plan 2011-2029)

#### Guidance Documents

- Vehicle Parking Standards (Supplementary Planning Document)
- Residential Design Guide (Supplementary Planning Guidance - April 2008)
- LES - Low Emission Strategy Guidance for Developers (April 2014)
- Open Space (Supplementary Planning Document - June 2009)

### **SUMMARY OF REPRESENTATIONS**

**Kenilworth Town Council:** Objection due to inadequate car parking and design issues.

**WCC Ecology:** No objection, subject to conditions

**WCC Highway Authority:** No objection, subject to conditions

**WCC Rights of Way:** No comment

**WDC Environmental Protection:** No objection from a housing standards perspective. No objection, subject to condition regarding noise protection measures and a note regarding construction methods.

**WDC Green Space Team:** Contribution required for 23 bedrooms at £1,228 per single room and £834 per multiple bed room equalling £27,062. This would be put towards development objectives of Abbey Fields specifically relating to a new lake jetty.

**WDC Waste Management:** The maximum distance the operatives will move a bin is no further than 10m. The proposal has been amended to satisfy this requirement.

**Public Response:** Six letters of objection and one letter of comment have been received relating to:

- Overdevelopment of site
- Impact on parking
- Impact on privacy
- Design of proposal
- Impact of proposed student accommodation on neighbouring properties
- Height of proposal
- Impact on character of the area
- Loss of light to neighbouring properties
- Impact on pedestrian safety
- Potential for noise pollution
- Access rights running through the site to the properties to the rear
- Non-compliance with HMO policy

Comments relate to:

- Parking issues

Following amendments to the scheme, one further letter of objection was received. The objections mirrored the above.

## **ASSESSMENT**

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

- The principle of the development
- The impact on the character and appearance of the area
- The impact on the adjacent Conservation Area
- The impact on neighbouring properties and whether the proposal would provide adequate living conditions for future occupiers of the development

- The impact on the highway network and parking provision
- Other matters

#### Principle of development

Policy H6 of the Local Plan states that planning permission will only be granted for Houses in Multiple Occupation where:

- a) The proportion of dwelling units in multiple occupation (including the proposal) within a 100m radius of the application site does not exceed 10% of the total dwelling units;
- b) The application site is within 400m walking distance of a bus stop;
- c) The proposal does not result in a non-HMO dwelling being sandwiched between two HMOs;
- d) The proposal does not lead to a continuous frontage of three or more HMOs; and
- e) Adequate provision is made for the storage of refuse containers whereby –
  - i. The containers are not visible from an area accessible by the general public, and
  - ii. The containers can be moved to the collection point along an external route only.

This proposal seeks to change the use of and extend an existing building. This would be spread over five floors and would create 6 cluster flats.

The HMO calculation carried out demonstrates that, including the development proposal, the resulting percentage of HMOs within a 100m radius would be 8.55% thus complying with the first part of Policy H6. Notwithstanding this, it is considered that the proposal would comply within the exception set out in the Policy as the site is on a main thoroughfare in a mixed use area and would not lead to an increase in activity along residential streets.

Points b) to e) are all satisfied by the development in that there is a bus stop within 400m, the proposal would not sandwich a non-HMO, there would not be a continuous frontage of three or more HMOs, there is adequate provision of refuse containers and the proposal would not lead to a continuous frontage of three or more HMOs.

Finally, the application site is outside of Kenilworth's Town Centre Boundary and therefore there is no policy protecting the current use as an Indian restaurant.

The loss of the existing use is considered acceptable and the proposal overall complies with all the stipulated provisions of Policy H6 and as such is acceptable in principle. An assessment will, however, have to be made regarding all other relevant planning considerations.

#### Impact on the character of surrounding area

Policy BE1 states that new development will be permitted where it positively contributes to the character and quality of its environment through good layout and design.

The proposal would utilise and extend an existing building using the adjacent buildings as a design cue. The roofline would be extended to match the existing buildings and would then drop down to match the existing buildings along Warwick Road. There would be a mixture of brick and render proposed with a slate tile roof. The detailing of the building uses the adjacent buildings to ensure continuity.

It is considered that the new elements of the proposal would respect the character of the area. The window form matches the rhythm of the existing buildings which would help the proposed settle into the streetscene.

On the rear elevation, the more modern style which was originally proposed has amended to provide a more simple approach. This simple form echoes the surrounding buildings, is of a high quality and would respect the character of the area. The modern touches are not over impingent on the overall style and design of the building.

Details of all external/facing materials will be conditioned together with a full landscaping scheme.

The proposal is therefore considered to comply with Policy BE1 of the Local Plan.

#### Impact on the Conservation Area

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 132 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.

Warwick District Local Plan Policy HE2 (protection of conservation areas) states development will be expected to respect the setting of conservation areas and important views both in and out of them.

During the course of the application, the scheme has been amended. A storey has been removed, the proportions of windows have been improved, and the rear elevations have been redesigned to reflect the simple fenestration of neighbouring historic properties. In townscape terms the scheme will now be a positive addition. The above suggested conditions can ensure that the proposal would be high quality.

The proposed development is not considered to cause harm to the setting of the Conservation Area and therefore the tests in Paras 132 and 134 do not apply. As such, the proposal is considered to comply with Policy HE2 of the Local Plan.

#### Impact on adjacent properties/residential amenity and living conditions for future occupiers

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.

With regards to the amenity for any future occupiers, all habitable rooms have a window with sufficient outlook and light. None of the bedrooms in the basement are positioned to face onto Warwick Road and those facing Clarendon Road can be screened by vegetation which can be secured by condition. Further, there is no objection to the proposal from the Private Sector Housing Team from a housing standards perspective.

Environmental Protection have assessed the application and the submitted noise report and have no objection to the proposal, subject to a condition and note. The noise report demonstrates that the recommended internal sound levels can be achieved by using conventional secondary glazed windows with the appropriate design. These windows would, however, have to be closed, so alternative means of background ventilation would be necessary. These details can be secured by condition to ensure that there is a suitable standard of amenity for future residents.

With regards to the potential impact on neighbouring residents, the proposed HMO accords with Policy H6 which is designed to ensure there is no harmful over-concentration of HMOs in any area and therefore it is concluded that the proposal would not lead material harm to neighbouring residents. It should also be noted that the current use as an Indian restaurant could lead to parking in the parking area through the day and evening so a parking area in this space would not cause any additional harm. Finally, a condition can prohibit the use of the area next to bedroom one of cluster two from being used as a balcony. As proposed there is no access to this area.

It has been raised that the additional built form would impact on the existing properties to the east. However, it is considered that the distance from the existing properties and the orientation of the relationship would mean that there would be no material harm by reason of overlooking. Therefore, the privacy of both the existing and proposed residents would be protected.

Finally, a condition requiring the submission of a Construction Management Plan is recommended. This could control hours of working, delivery times and the control of noise and dust.

The proposed development is therefore considered to comply with Policy BE3.

#### Access and Parking

Policy TR1 of the Warwick District Local Plan requires all developments to provide safe, suitable and attractive access routes for all users that are not detrimental to highway safety.

Policy TR3 requires all development proposals to make adequate provision for parking for all users of a site in accordance with the relevant parking standards.

The proposed scheme would have a shortfall of 4 spaces when assessed against the Council's Vehicle Parking Standards SPD. However, the Highways Authority have assessed the application, and the applicant's Transport Statement, and are of the opinion that the level of parking proposed is acceptable. This is based on the local facilities and amenities available within the vicinity of the site (including the local bus services) given the site's sustainable location. It is also noted that 9 bicycle stands are to be provided within the parking court, which can be secured by condition.

With regards to the impact of the shortfall in parking on the amenity of neighbouring occupiers, the sustainable location is noted. Further, two site visits have been made to the location where it was seen that there was sufficient capacity on street within the local area to accommodate the shortfall of four spaces.

With regards to vehicle trip generation, the proposal would generate a slight increase in vehicle trips during the AM peak hour. However, the proposals will generate significantly fewer vehicle trips over the 12-hour period compared to the existing use. Therefore, despite a substandard visibility splay at the access, the proposal is considered acceptable by the Highway Authority.

Taking the above into account, it is considered that the proposed development accords with Policies TR1 and TR3 of the Local Plan.

## **Other Matters**

### Ecology

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

The County Ecologist has assessed the application and has no objection to the proposal subject to a condition regarding bats, a check for protected species if necessary and a condition to ensure a net gain in biodiversity.

As such, subject to conditions, the proposal complies with Policies NE2 and NE3 of the Local Plan.

### Open Space

The additional residents brought into the area by this application will put more pressure upon existing open space, both in the locality and the wider district in relation to destination parks.

As set out in HS4 of the Warwick Local Plan 2011-2029, a contribution is required in order to mitigate the impact of this additional use. The contribution rates are set out in the subsequent 'Open Space Supplementary Planning Document' and its associated guidance, 'Developer Contributions for commuted payments for new provision/enhancement of open space'.

On the basis of the above, the Open Space team have requested a contribution for 23 bedrooms at £1,228 per single room and £834 per multiple bed room equalling £27,086.

The contribution will be put toward the development objectives of Abbey Fields, relating specifically to replacement of new lake jetty.

Abbey Fields scored only 'Average' in a number of aspects in the latest Parks Audit (2016). The Green Space Strategy sets out the objective of having our public open spaces rated as 'good' or better by 2026. At the time of responding, there are no S106 agreements assigned to this project within the park.

This can be secured by condition and the proposal therefore complies with Policy HS4.

#### Low Emissions

Warwick District Council has adopted Low Emission Strategy planning guidance as an addendum to the Air Quality Action Plan.

The Low Emission Strategy Guidance establishes the principle of Warwick District as an Emission Reduction Area and requires developers to use reasonable endeavours to minimise emissions and, where necessary, offset the impact of development on the environment. The guidance sets out a range of locally specific measures to be used to minimise and/or offset the emissions from new development, however these are suggestions and other innovative ideas are encouraged. No such provision has been shown on the plans, but this can be secured by condition.

#### Bin storage

Two bins of a size recommended by the Council's Waste Management Operative have been provided within ten metres of the highway. These are in a location which would not harm any amenity of future residents and a condition can ensure a suitable bin store is created prior to first occupation. The proposal is therefore acceptable in this regard.

#### CIL

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

### **Conclusion**

The principle of development is considered acceptable having regard to the applicable policies. There would be no material harm caused to the character of the wider area, the amenity of neighbouring properties or the highway network. Suitable planning conditions could shape and mitigate the development and therefore, it is considered to represent a sustainable form of development overall. For these reasons, it is recommended that planning permission be granted subject to the following conditions and notes.



## **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) 10597-10D, 10597-11C and 10597-12B and specification contained therein, submitted on 5th December 2017 and 15th December 2017. **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 Other than site clearance and preparation works no works shall commence on the construction of the development hereby permitted until samples of the external facing materials (including sample brick panels, render, natural slate roof and drip moulds over window heads) to be used have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. **REASON:** To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the locality in accordance with Policy BE1 of the Warwick District Local Plan 2011-2029.
- 4 Other than site clearance and preparation works no works shall commence until large scale details of doors, windows (including a section showing the window reveal, heads and cill details), eaves, verges, rainwater goods and grills to the car park area at a scale of 1:5 (including details of materials) have been submitted to and approved by the Local Planning Authority. The development shall be carried out in strict accordance with such approved details. **REASON:** To ensure an appropriate standard of design and appearance for the site adjacent to the Conservation Area, and to satisfy Policy HE2 of the Warwick District Local Plan 2011-2029.
- 5 Unless the Local Planning Authority certifies that suitable alternative provision has been made for the provision or improvement of open space within the catchment area of the application site in accordance with Policy SC13 of the Warwick District Local Plan 1996-2011:
  - (i) no development shall commence unless or until a scheme for such provision or improvement (identifying the size/extent, location and specification of the space and works) has been submitted to and approved in writing by the Local Planning Authority; and
  - (ii) the dwellings hereby permitted shall not be occupied until the scheme so approved has been implemented.

**REASON:** To ensure the necessary infrastructure and facilities are

provided in accordance with Policy SC13 of the Warwick District Plan 1996 – 2011.

- 6 The development hereby permitted shall not commence until a scheme detailing arrangements to protect residents of the development from excessive road traffic noise entering habitable rooms has been submitted to and approved in writing by the local planning authority. The development shall not be occupied unless and until the scheme has been implemented in full in accordance with the approved details and it shall be retained as such thereafter. **REASON:** To protect the amenities of future occupiers of the proposed development in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.
- 7 The development (including any works of demolition) shall proceed only in strict accordance with a construction method statement which has been submitted to and approved in writing by the local planning authority. The approved statement shall be strictly adhered to throughout the construction period and shall provide for: the parking of vehicles of site operatives and visitors; the loading and unloading of plant and materials; the storage of plant and materials used in constructing the development; the erection and maintenance of a security hoarding including decorative displays and facilities for public viewing where appropriate; measures to control the emission of dust and dirt during construction; and a scheme for recycling / disposing of waste resulting from demolition and construction works, unless otherwise agreed in writing by the local planning authority. **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 BE1, BE3 and TR1 of the Warwick District Local Plan 2011-2029.
- 8 Prior to the commencement of development hereby permitted a scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include:
  - a) planting plans,
  - b) written specifications including cultivation and other operations associated with tree, plant and grass establishment.
  - c) a schedule of plants noting species, plant sizes and proposed numbers/densities.
  - d) existing landscape features such as trees, hedges and ponds to be retained accurately plotted (where appropriate).
  - e) existing landscape features such as trees, hedges and ponds to be removed accurately plotted (where appropriate)
  - f) the means of accommodating change in level (e.g. steps, retaining walls, ramps where appropriate)
  - g) hard surfacing materials- details of manufacturer, type and design, colour and bonding pattern where appropriate. Samples may be required to be submitted and approved.
  - h) the position and design of all site enclosures

- i) car parking layout
- j) other vehicular and pedestrian areas
- k) minor artefacts and structures (e.g. street furniture, cycle storage, refuse areas, signage, lighting etc).

The approved scheme shall be carried out concurrently with the development and completed prior to the first occupation of the development hereby permitted.

If within a period of five years from the date of the soft planting pursuant to this condition that soft planting is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced by planting as originally approved, unless the Local Planning Authority gives its written approval to any variation. This replacement planting shall be undertaken before the end of the first available planting season (October to March inclusive for bare root plants), following the removal, uprooting, destruction or death of the original trees.

**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.

- 9 The development hereby permitted shall not be occupied until a scheme which satisfies the requirements set out in the Council's adopted Low Emission Strategy Guidance for Developers (April 2014) has been submitted to and approved in writing by the Local Planning Authority and implemented in full accordance with the approved details. The approved scheme shall be retained and maintained as such 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.
- 10 Prior to the occupation of the development hereby permitted, the windows serving bathrooms/en-suites, as shown on plan number 10597 - 11 - REV C, 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 unless the parts of the window that can be opened are more than 1.7 metres above the floor of the room in which the window is installed. The obscured glazed window(s) 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.
- 11 The roof area adjacent to bedroom 1 of cluster two, shown on plan number 10597-11-REV C, hereby permitted shall not be used as a balcony, roof garden or similar amenity area. **REASON:** In the interests of the amenities of the occupiers of nearby properties in

accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.

- 12 The development hereby permitted shall not be occupied unless and until the approved cycle and car parking facilities have been provided and made available for use in accordance with the details on drawing 10597 10 C and thereafter those facilities shall remain available for use at all times. **REASON:** In the interests of encouraging the use of alternative modes of transport with the aim of creating a more sustainable development in accordance with Policies TR1 and TR4 of the Warwick District Local Plan 2011-2029.
- 13 The development hereby permitted shall not be occupied unless and until the external refuse storage areas for the development have been constructed or laid out, and made available for use by the occupants of the development in accordance with the approved details and thereafter those areas shall be kept free of obstruction and be available at all times for the storage of refuse associated with the development. **REASON:** To ensure the satisfactory provision of refuse storage facilities in the interests of amenity and the satisfactory development of the site in accordance with Policy BE1 of the Warwick District Local Plan 2011-2029.

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

**Town/Parish Council:** Kenilworth

**Case Officer:** Rob Young

01926 456535 [rob.young@warwickdc.gov.uk](mailto: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

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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 CO<sup>2</sup> 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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**Planning Committee:** 09 January 2018

**Item Number: 11**

**Application No:** [W 17 / 2136](#)

**Town/Parish Council:** Whitnash

**Case Officer:** Rebecca Compton

01926 456544 rebecca.compton@warwickdc.gov.uk

**Registration Date:** 09/11/17

**Expiry Date:** 04/01/18

**35 Greville Smith Avenue, Whitnash, Leamington Spa, CV31 2HQ**

Erection of a single storey side and rear extension. FOR Ms Robbins

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This application is being presented to Committee as the applicant is a Council member of staff.

### **RECOMMENDATION**

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

### **DETAILS OF THE DEVELOPMENT**

The proposal is for a single storey rear extension and single storey side extension.

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

The application property is semi-detached bungalow located on the eastern side of Greville Smith Avenue, Whitnash. The area is a mix of bungalows and two storey semi-detached dwellings.

### **PLANNING HISTORY**

No relevant planning history.

### **RELEVANT POLICIES**

- National Planning Policy Framework
- BE1 - Layout and Design (Warwick District Local Plan 2011-2029)
- BE3 - Amenity (Warwick District Local Plan 2011-2029)
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets (Warwick District Local Plan 2011-2029)
- TR3 - Parking (Warwick District Local Plan - 2011-2029)
- Residential Design Guide (Supplementary Planning Guidance - April 2008)
- The 45 Degree Guideline (Supplementary Planning Guidance)
- Vehicle Parking Standards (Supplementary Planning Document)

### **SUMMARY OF REPRESENTATIONS**

**Whitnash Town Council:** No objection.

**WCC Ecology:** Recommend initial bat survey.

### **DETAILS OF THE DEVELOPMENT**

Proposed single storey rear extension and single storey side extension.

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

The application property is semi-detached bungalow located on the eastern side of Greville Smith Avenue, Whitnash. The area is a mix of bungalows and two storey semi-detached dwellings.

### **PLANNING HISTORY**

No relevant planning history.

### **ASSESSMENT**

#### Design and impact on the street scene.

The proposed rear and side extensions are considered of an appropriate design and are to be constructed in matching brick and tile to complement the existing property and surrounding area. The proposed side extension is set back and set down from the existing property to create a subservient addition to the property in accordance with the Residential Design Guide SPG and Local Plan Policy BE1 of The Warwick District Council Local Plan 2011-2029.

#### The impact on the living conditions of the occupiers of the neighbouring properties

The single storey rear extension will breach the Council's adopted 45° line to the neighbouring property at no.37 Greville Smith Avenue. The proposal will therefore impact on the outlook from the adjacent ground floor window of that property and is therefore contrary to the Residential Design Guide SPG. However in isolation, the proposed rear extension could be constructed under permitted development and therefore in the particular circumstances of this case, it is not considered appropriate to refuse planning permission on these grounds.

#### Parking

The proposed extensions will not affect the current driveway parking and will not increase the need for further parking spaces. The development is therefore considered to be in accordance with the Vehicle Parking Standards SPD.

#### Ecology

The County Ecologist has recommended that a preliminary bat survey is required prior to the determination of the application. I have considered this request and note that the existing dwelling is located within a built up area with other dwellings in close proximity to the dwelling.

On this basis, I do not consider that it is appropriate or practicable to request a bat survey be submitted. In coming to this conclusion, I am mindful of the location of the property, the characteristics of the local area and the fact that bats are a protected species under separate legislation and a duty of care by the applicants to ensure protected species are not harmed by the proposal.

On the basis of the above, I consider that the imposition of an explanatory note regarding the applicant's responsibility with regard to protected species is sufficient in this case.

### Conclusion

The proposed development will create a subservient addition to the existing property that is of an appropriate design that will not present a negative impact to the amenity of neighbouring properties.

### **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 17/46-02, and specification contained therein, submitted on 13/11/2017. **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 All external facing materials for the development hereby permitted shall be of the same type, texture and colour as those of the existing building. **REASON:** To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy BE1 of the Warwick District Local Plan 2011-2029.
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**Planning Committee:** 09 January 2018

**Item Number: 12**

**Application No:** [W 17 / 2166](#)

**Town/Parish Council:** Cubbington

**Case Officer:** John Wilbraham

01926 456539 [john.wilbraham@warwickdc.gov.uk](mailto:john.wilbraham@warwickdc.gov.uk)

**Registration Date:** 16/11/17

**Expiry Date:** 11/01/18

**154 Rugby Road, Cubbington, Leamington Spa, CV32 7JQ**

Erection of replacement rear conservatory FOR Miss Ruth Jones

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This application is being presented to planning committee because the applicant is an employee of Warwick District Council.

**RECOMMENDATION**

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

**DETAILS OF THE DEVELOPMENT**

Erection of a 3m deep and 2.5m high upvc framed rear conservatory to replace an existing timber conservatory 2.6m deep and 2.5m high conservatory.

**THE SITE AND ITS LOCATION**

The application relates to a maisonette located on the south side of Rugby Road, Cubbington within a predominantly residential area.

**PLANNING HISTORY**

None relevant

**RELEVANT POLICIES**

- National Planning Policy Framework

The Current Local Plan

- BE1 - Layout and Design (Warwick District Local Plan 2011-2029)
- BE3 - Amenity (Warwick District Local Plan 2011-2029)
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets (Warwick District Local Plan 2011-2029)

Guidance Documents

- Residential Design Guide (Supplementary Planning Guidance - April 2008)

## **SUMMARY OF REPRESENTATIONS**

**Cllr Trevor Wright** - No objection

**WCC Ecology** - Recommend notes relating to bats and nesting birds

## **ASSESSMENT**

The main issues in the consideration of this application are:

- The effect of the proposal on the character and appearance of the area
- The effect of the property on the living conditions of the neighbouring properties.

### Character and appearance

Policy BE1 states that new development will be permitted where it positively contributes to the character and quality of its environment through good layout and design.

The proposal is to the rear of the property and will not be readily visible from public vantage points. The extension is small scale with materials which match those on both the application and neighbouring properties and will therefore sit comfortably in this location. The proposal is therefore considered to accord with Policy BE1.

### Living Conditions

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.

The proposed extension will breach the 45 degree line from the kitchen window of the neighbouring property at No.150. However, given the glazed nature of the proposal taken together with the low height and that the roof slopes away, taken together with the fact that there is a similar, albeit slightly smaller, existing structure in place, it is considered that the proposal will not result in material harm to the living conditions of the occupier of the neighbouring property. It should also be noted that if the property had not been a maisonette the proposed extension would have been permitted development. Furthermore, it should be noted that no objections have been received to the proposal.

Taking all of the above into account, it is considered on balance that the proposal would not harm the living conditions of the occupiers of the neighbouring property and would accord with Policy BE3 and the Residential Design Guide SPG.

## **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 drawings ('New conservatory proposed rear elevation & part plan) and specification contained therein, submitted on 16 November 2017. **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 All external facing materials for the development hereby permitted shall be of the same type, texture and colour as those of the existing building. **REASON:** To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy BE1 of the Warwick District Local Plan 2011-2029.