

**Planning Committee:** 10 January 2023

**Item Number:** 6

**Application No:** [W 22 / 1546](#)

**Town/Parish Council:** Leamington Spa  
**Case Officer:** Helena Obremski

**Registration Date:** 18/10/22

**Expiry Date:** 13/12/22

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**16 Cross Street, Leamington Spa, CV32 4PX**

Demolition of existing building and erection an apartment building comprising 8 units FOR GSK Developments

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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 in the report and the signed unilateral undertaking to remove rights of future occupants from applying for parking permits.

**DETAILS OF THE DEVELOPMENT**

Planning permission is sought for the demolition of the existing building serving the site and the erection of an apartment building comprising of 8 units.

This is a similar scheme to W/22/0125 which was refused on the following grounds only:

*Based on the information available, it is likely that the future occupiers of the development would need to keep their windows closed and rely on mechanical ventilation the majority of the time to ensure an acceptable internal noise environment. Officers do not consider that this would provide a satisfactory living environment for future residential occupiers. Elevated noise levels at the site mean that residents would be forced to choose between natural ventilation and exposure to elevated noise levels. The limited opportunities to open windows can have a psychological impact on individuals as it removes their connection with the outside world. On this basis Officers consider that a poor living environment would be provided for future occupiers.*

*Notwithstanding the above, the application also fails to provide sufficient information to demonstrate that appropriate ventilation and thermal comfort arrangements will be provided as a result of the proposed noise mitigation measures and also fails to provide a clear noise assessment of impacts arising from rear car park.*

Lightwells have been provided at the rear of the apartments in order to provide screening from the car park at the rear of the development to minimise adverse

noise and air quality impacts, but also provide access to openable windows for natural ventilation. There have also been minor alterations to the fenestration.

## **THE SITE AND ITS LOCATION**

The application site relates to a two storey converted warehouse located on the southern side of Cross Street, with a lawful use as offices. Dwellinghouses are located on the opposite side of the highway to the north and a four storey office building and associated car park is located to the immediate rear of the site to the south. The site is within the urban area of Royal Leamington Spa and the Conservation Area.

## **RELEVANT PLANNING HISTORY**

W/84/1135 - application approved for use of premises as offices and warehousing.

W/85/1133 - application approved for use of premises as offices and warehousing.

W/87/1104 - application approved for erection of a first floor extension to form group boardroom.

W/15/1292 - application refused for demolition of existing single storey archive warehouse, replacing with 4no. 2.5 storey 3 bedroom dwelling houses.

W/20/0077 - prior approval given for proposed change of use building from Office use (B1a) to residential use (C3) under schedule 2, Part 3, Class O of the GPDO 2015.

W/21/1029 - application withdrawn for the demolition of existing building and erection of 5 (2.5 storey) dwellings.

W/22/0125 - application refused for the demolition of existing building and erection of an apartment building comprising 8 units.

## **RELEVANT POLICIES**

- National Planning Policy Framework

### **Warwick District Local Plan 2011-2029**

- H1 - Directing New Housing
- H4 - Securing a Mix of Housing
- BE1 - Layout and Design
- BE3 - Amenity
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- NE5 - Protection of Natural Resources
- HE1 - Protection of Statutory Heritage Assets
- TR3 - Parking
- FW3 - Water Conservation

- TCP1 - Protecting and Enhancing the Town Centres
- TC12 - Protecting Town Centre Employment Land and Buildings
- EC3 - Protecting Employment Land and Buildings
- CC1 - Planning for Climate Change Adaptation

#### Guidance Documents

- The 45 Degree Guideline (Supplementary Planning Guidance)
- Parking Standards (Supplementary Planning Document- June 2018)
- Residential Design Guide (Supplementary Planning Document- May 2018)
- Air Quality & Planning Supplementary Planning Document (January 2019)

#### Royal Leamington Spa Neighbourhood Plan 2019-2029

- RLS1 - Housing Development Within the Royal Leamington Spa Urban Area
- RLS2 - Housing Design
- RLS3 - Conservation Area
- RLS5 - Royal Leamington Spa Housing Mix and Tenure
- RLS12 - Air Quality
- RLS16 - Royal Leamington Spa Town Centre

### **SUMMARY OF REPRESENTATIONS**

**Royal Leamington Spa Town Council:** Objection, the Town Council is supportive of an appropriate redevelopment of this brownfield site but would like to reiterate its objection to this application on the following grounds:

1. Overdevelopment of the site.
2. Negative impact on the neighbours' amenity in terms of loss of light and overlooking.
3. Holding objection until comments are received from Conservation, Environmental Health and WCC Highways.

The plans do not appear to be much altered from the application W/22/0125 which was refused earlier this year.

**WCC Ecology:** No objection, recommends inclusion of informative notes relating to bats, nesting birds and hedgehogs.

**Waste Management:** No objection.

**Conservation Officer:** Objection, the proposed design, scale and massing is identical to the previous submission.

**Environmental Protection:** No objection, subject to conditions.

**CAF:** Objection: harmful to the character of the conservation area, as the design, size and scale are not reflective of the history of the area as a mews road, and its single north-west facing aspect raises concern when considering potential living conditions:

- Whilst the current building was of no considerable architectural value, it is modest in size and scale, and a historic component of the variable character of Cross Street, reflective of this area's past as a Mews Road.
- The proposed design for the replacement building is too grand and too large for a mews road, attempting to be reflective of the lavish houses that would have fronted the main streets rather than the coach houses and ancillary structures which would have been found on this rear road.
- Too many flats were being proposed for too little space, with the ambitions and design of the proposal disregarding the historic 'mews' nature of the location within the conservation area.
- Concerns regarding air flow, heat management and light to the building were raised.
- Imperial House, which surrounds the plot, has been vacant and will likely be scheduled for redevelopment, at which time the blank rear aspect of this development would look very strange.
- The 'car free' development was welcomed by some members as a bold commitment to sustainability, however others questioned how rigorously this would be enforced.
- The green space to the front of the proposal would be out of character for a Mews Road, as such areas would historically be paved.
- It was positively remarked, however, that the refuse and cycle storage areas had been shielded away from the road.

**WCC Highways:** No objection.

### **Public Responses:**

5 Objections:

- design: overdevelopment;
- amenity: poor amenity for future residents - changes to the rear do not overcome the reasons for refusal of the previous application; inaccurate information in the noise survey regarding surrounding uses; concerns over air flow, heat management and light have not been answered in the latest noise survey; loss of privacy and light to neighbouring properties; impacts of construction work; disturbance from comings and goings of residents on future occupiers from Imperial Court;
- parking: on street parking is at capacity on nearby streets and the development will add to this parking stress impacting on the amenity of existing residents; doubts over the accuracy of the parking survey given the existing parking stress experienced by residents;
- devalues nearby properties and will reduce ability to sell in future;
- comments raised by members of the public on the previous application were ignored.

### **ASSESSMENT**

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

- Principle of Development: loss of offices, demolition of the existing building and provision of additional housing;
- Design and Impact on Heritage Assets;

- The impact on the living conditions of nearby dwellings and living conditions for the future occupiers of the site;
- Car Parking and Highway Safety;
- Ecological Impact;
- Housing Mix
- Waste;
- Climate Change;
- Air Quality;
- Other Matters.

### Principle of Development

#### *Loss of offices*

Local Plan policy EC3 states that the redevelopment or change of use of existing employment land and buildings, such as use class B1 (including offices), will not be permitted. The application site is located within the town centre employment area, so must be classed as employment land. It should be noted that the use class order has been updated since the adoption of the Local Plan, and use class B1(a) no longer exists.

The offices would now be classed as use class E (commercial, business and service uses). Moreover, there are no conditions limiting the existing use of the site specifically for office use. Use class E now covers retail, financial or professional services, cafes, restaurants, research and development facilities, light industrial processes, clinics, health centres, nurseries and gymnasiums, amongst other uses. Therefore, the offices could be converted to any of the aforementioned uses, most of which do not form former "employment" uses, without the need for planning permission. The updating of the use class order to include a variety of town centre uses within the same use class gave a clear direction that these were appropriate and should not be unduly restricted.

Officers are also mindful that there is an extant prior approval application at this site for change of use from offices to residential use. On the basis of the aforementioned considerations, it is considered that the loss of offices in this location is acceptable.

#### *Demolition of the existing building*

Local Plan policy HE2 states that there will be a presumption in favour of the retention of unlisted buildings that make a positive contribution to the character and appearance of a Conservation Area. Consent for total demolition of unlisted buildings will only be granted where the detailed design of the replacement can demonstrate that it will preserve or enhance the character or appearance of the conservation area.

The Conservation Officer confirmed under the previous application at this site (W/22/0125), that the existing building does not contribute towards the significance of the Conservation Area, nor has he raised concerns regarding its loss under this application. Officers agree with this conclusion. The Conservation Area Forum note that existing building is of no considerable architectural value, but that it is modest in size and historic component of the variable character of

Cross Street. Officers consider that the existing building is of an unremarkable design, with a single storey flat roof section, which adds no material architectural value to the street scene.

Notwithstanding these conclusions, in accordance with the requirements of the policy, permission can only be granted where the replacement can demonstrate that it will preserve or enhance the character or appearance of the conservation area. This is discussed in more detail below. However, the principle of the demolition of the existing building is accepted, subject to the aforementioned consideration. This was the same conclusion drawn under application W/21/1029 and deviation from this given there has been no material change in circumstances would be unreasonable.

#### *Provision of additional dwellings*

Neighbourhood Plan Policy RLS1 states that new housing development within the Royal Leamington Spa Urban Area will be supporting for the following:

1. Re-use of previously developed land and buildings.
2. Infill development of less than 10 dwellings, that does not lead to the loss of residential gardens (unless in accordance with Policy H1 of the Warwick District Local Plan), overdevelopment, or have a significant adverse impact on the amenity of adjacent existing and future occupiers and uses.
3. Proposals for custom and self-build housing provision that are acceptable when assessed against Warwick District Local Plan Policy H15.
4. Community-led housing developments and the provision of live/work units on the Court Street area as defined in allocation H16 of the Local Plan.
5. Proposals for purpose-built student accommodation when positively assessed against Local Plan and any relevant supplementary planning document.

Development of previously developed land shall undertake a surface water outfall assessment, following the Drainage Hierarchy (National Planning Practice Guidance, paragraph 80) to determine if there are viable alternatives to existing connections to the combined sewer network. This has been secured by condition.

The proposal would represent the reuse of previously developed land within the urban area boundary and therefore meets the above requirements for new housing development.

Local Plan Policy H1 states that new housing development will be permitted within the urban areas. Leamington Spa is identified as being an urban area on the proposal maps and therefore meets this criteria. The principle of housing on this site is considered to be acceptable and accords with the requirements of Local Plan Policy H1 and Neighbourhood Plan Policy RLS1.

Officers came to the same conclusions under the previously refused application (W/22/0125) and have no reason to come to an alternative view under this application. The proposed development is therefore considered acceptable in principle.

#### Design and Impact on Heritage Assets

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 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.

Section 72 of the Planning (Listed Buildings and Conservation Areas) 1990 imposes a duty when exercising planning functions to pay special attention to the desirability of preserving or enhancing the character of a Conservation Area. Section 66 of the same Act imposes a duty to have special regard to the desirability of preserving a listed building or its setting when considering whether to grant a planning permission which affects a listed building or its setting. This means that considerable importance and weight must be given to any harm caused to designated assets in the planning balance.

Paragraph 199 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 (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 202 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage assets, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Policy HE1 of the Local Plan states that development will not be permitted if it would lead to substantial harm to the significance of a designated heritage asset. Where the development would lead to less than substantial harm to the significance of a designated heritage asset, this harm will be weighed against the public benefits of the proposal. The explanatory text for HE1 clarifies that in considering applications relating to Conservation Areas, the Council will require that proposals do not have a detrimental effect upon the integrity and character of the building or its setting, or the Conservation Area. Local Plan policy HE2 supports this and states that it is important that development both within and outside a conservation area, including to unlisted buildings, should not adversely affect its setting by impacting on important views and groups of buildings within and beyond the boundary.

Neighbourhood Plan policy RLS3 states that development proposals that are within or directly affect a Conservation Area must assess and address their impact on their heritage significance. Proposals must demonstrate attention to the following where relevant:

- a) The proposed building type, style, materials and colours in relation to the character area in which it is located and its distinguishing features;
- b) The relationship of the proposed layout to the existing road pattern, plot sizes, and the balance between buildings and garden spaces;
- c) Building height, scale and rooflines sympathetic to the local setting;
- d) How the development interfaces with and respects the significance listed buildings and non-designated heritage assets, landmark buildings, classical set pieces, parks and gardens, watercourses and the canal;
- e) Retention or enhancement of gardens, open spaces, trees and, where possible, inclusion of new tree planting;
- f) Retention, restoration and reinstatement of period details e.g. decoration, ornamentation, ironwork;
- g) Retention and creation of off-street car parking;
- h) Retention and reinstatement of shopfronts in accordance with Policy RLS17 of this plan;
- i) Use of hard and soft landscaping and suitable boundary treatments when considered in relation to the surrounding local context;
- j) Protection of key groupings of buildings as identified in the Conservation Area Assessment;
- k) Appropriate assessment of any remains of archaeological value, including field evaluation where existing information is absent;
- l) Protection of key views especially of landmark buildings, classical set pieces, parks and gardens, bridges, the rivers and canal and at key gateways and along key thoroughfares, all as identified in the Conservation Area Assessment; and
- m) Identifying and reinforcing any links with the town's historic past, such as the spa town, railway and canal legacies.

RLSNPD Policy RLS2 states that planning proposals for new housing development will be required to achieve good design. They should function well for all by being *Lifetime Homes* and make a positive contribution to the quality of the built environment in Royal Leamington Spa. Proposals will be assessed against Warwick District Local Plan Policy BE1 and should have regard to any relevant Supplementary Planning Documents, including the Warwick District Council *Residential Design Guide SPD*.

The Town Council and members of the public considers that the proposal represents overdevelopment.

As noted above, it is not considered that the existing building makes a positive contribution to the character and appearance of a Conservation Area, or the street scene, therefore the presumption in favour of its retention does not apply.

The street scene is mixed, with a converted modest warehouse style building opposite, two storey residential properties within the street, some with third floor accommodation, and three storey office development next to the site, of poor architectural quality. The street has a sense of a service road, in terms of its size, but it does not benefit from traditional service buildings, such as mews properties or coach houses, which are common along service roads within this Conservation Area. Within the wider area there is larger scale, three and four storey development. The character of the street scene and nearby area is mixed, as noted by the Conservation Area Forum.



The development provides a flatted scheme. This adopts a Regency style design, with a main two storey frontage, and a third floor which is stepped back from the front elevation and two smaller side wings, stepped back from the front elevation. It would have white rendered walls, brick banding detailing and a flat roof design, in keeping with similar development found commonly within this part of the Conservation Area.

The Conservation Officer has maintained concern regarding the current design. He noted under the previous application that the site forms part of a mews street in its overall character, notably to the eastern side of Cross Street. He considered that the design and scale of the development does not preserve or enhance the Conservation Area. In his comments for the current application he notes that as the design, scale and mass is identical to the previous application, he maintains his objection.

The Conservation Area Forum also raise concern regarding the design of the development, stating that the proposal is too grand and too large for a mews road, attempting to be reflective of the lavish houses that would have fronted the main streets rather than the coach houses and ancillary structures which would have been found on this rear road. They also consider the proposal to represent overdevelopment which does not respect the historic mews character of the area. They also suggest that the green space to the front of the proposal would be out of character for a Mews Road, as such areas would historically be paved.

Officers have considered the aforementioned comments. Whilst it is noted that the street scene is a fairly small road, in Officers view, it does not display the traditional architectural characteristics of a service road within this part of the Conservation Area. The existing properties are not small scale mews properties or coach houses, they are generally two storey terrace properties, some with third floor accommodation. There is a three storey dwelling of Regency design, not dissimilar design to that which is proposed further along the road, and a converted warehouse opposite the site. Neighbouring and opposite the site is much grander scale development of three and four stories, fronting onto Willes Road. This in highlights the mixed character of the immediate area.

The proposed development would be read predominantly as a two storey building when viewed within the street scene. The two side wings which are set back from the main elevation reduce the overall bulk and mass of the building in terms of the perception of its width and the third storey of the building is set back from the frontage. Whilst the third floor would be perceptible on the approach from either end of the street scene, this would be viewed against the back drop of the much larger development behind it and therefore it would not appear out of keeping.

The simple and appropriate Regency design of the building is considered to sympathetically respond to the character of the area and Conservation Area. There are rendered buildings within the street scene and a similarly designed property exists nearby, at the end of Rosefield Street. The street scene of Rosefield Street is considered similar to that of Cross Street in terms of the scale and design of the architecture. It is noted that there are no other three storey buildings serving this section of Rosefield Street, and that the similarly designed

development still sits comfortably within it. Officers therefore see no reason why the proposed development would not harmonise well within Cross Street.

It is however noted that the bulk and massing of the development will appear larger than that which is currently there, and that the development will add a new architectural element to the street scene. Given the mixed character of the area, on balance, this is considered to be acceptable.

For these reasons, Officers consider that the development would preserve the character of the Conservation Area, and has an acceptable impact on the character of the area and street scene. The development is therefore considered to be in accordance with the aforementioned policies.

This was the conclusion reached under the previous application. There have been very minor design alternations to the fenestration in the public domain which are acceptable. The provision of light wells at the rear of the property will not be visible within the public domain and in any event are considered to be acceptable in design terms. Officers have no reason to take a different view on this application, which would be unreasonable given the decision of the previous application and lack of change in material circumstances.

It is noted that Neighbourhood Plan policy RLS3 states that parking should be retained and created. However, in this constrained town centre location, providing parking would compromise the number of units. This is the same as the current arrangements for the site. This matter is considered in more detail below. Given that the proposal results in the provision of additional residential units in a sustainable location, and as the parking arrangements can adequately be addressed, it is not considered necessary for parking to be provided in site.

#### The impact on the living conditions of nearby dwellings and living conditions for the future occupiers of the site

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. Development should not cause undue disturbance or intrusion for nearby users in the form of loss of privacy, loss of daylight, or create visual intrusion. The Residential Design Guide SPG provides a framework for Policy BE3, which stipulates the minimum requirements for distance separation between properties and that extensions should not breach a 45 degree line taken from a window of nearest front or rear facing habitable room of a neighbouring property.

The Town Council considers that the development would have a negative impact on neighbouring amenity in terms of loss of light and overlooking. Members of the public raise concerns regarding a loss of privacy and light to neighbouring properties, and from the impacts of construction work. Members of the public also suggest that the development provides poor amenity for future residents, stating that the changes to the rear do not overcome reasons for refusal of the previous application. They state that inaccurate information is provided within the noise survey regarding surrounding uses, and have concerns over air flow, heat management and light, which are also noted by the Conservation Area

Forum. Members of the public also raise concerns regarding disturbance from comings and goings of residents on the future occupiers from Imperial Court.

### *Impact on Neighbouring Amenity*

Properties 23 - 25 Cross Street face directly opposite the site - these buildings are understood to be in office / commercial use. 21 Cross Street is also opposite the site, but not directly, and sits at an angle, slightly facing away from the site. There is no minimum distance separation stipulated within the Residential Design Guide between the front of properties and commercial premises.

The proposed development will provide additional windows at first floor which would face at an angle towards 21 Cross Street. No direct overlooking would therefore result in this case. It is considered that owing to the position of the proposed windows and existing angle of the windows serving 21 Cross Street, that the development would not have an unacceptable impact in terms of loss of privacy, light or outlook to this neighbour.

Any additional third floor windows serving the proposed development would be over 26 metres away from the rear of William Thomas House (fronting Willes Road opposite the site). Given that this neighbour is far greater in height and scale and that the first floor windows would be the only floor of the proposed development which is likely to impact on the neighbours owing to the relationship between the properties, and fact that a road separates the two buildings, this relationship is considered acceptable.

Imperial Court is located at the rear of the site. This is currently used as offices, but benefits from permission under prior approval to convert the building into flats. Windows serving habitable rooms to Imperial Court which would be positioned immediately opposite the proposed development would be 19 metres from the rear elevation - the proposed rear elevation would not benefit from windows which serve habitable rooms and in the main would be obscured by the car park which serves Imperial Court. This relationship therefore meets with the requirements of the Residential Design Guide.

Proposed side facing window are be conditioned to be permanently obscure glazed and non-opening unless above 1.7 metres in height to protect windows on the west elevation of the neighbouring building. The main two storey element of the development would be lower in height than the existing building, and the additional floor is stepped in from the side elevation. This would only have an overall increase in height of approximately 0.5 metres in comparison to the existing arrangement. There would be an increase in bulk and mass of the building in comparison to the existing pitched roof style of the building, but on balance this is not considered to be so harmful as to warrant reason for refusal of the application, noting that a large ramp to the rear car park separates the proposed development from Imperial Court and blocks views from the ground floor already.

The impact of the development on neighbouring residential amenity is considered to be acceptable. These were the same conclusions drawn under the previous application and there have been no material change in circumstances since this.

### *Living Conditions for the Future Occupiers*

The development has been designed so that it has front facing outlook only. This is to avoid constrained views out of the rear of the site onto the existing car park serving Imperial Court. Whilst some of the rooms will be fairly long, and will benefit from only an adequate outlook at the front of the site, on balance this provides a suitable living arrangement in terms of light and outlook, given that the rooms are open plan and relatively spacious. This was the conclusion drawn under the previous application with a similar layout. It is noted that there are now windows provided on the rear which face onto the lightwells for some of the properties in order to provide openable windows for natural ventilation. These would have an outlook similar to that of a basement. Planting is proposed to soften these areas.

As stated above, there is no minimum distance separation required to commercial development opposite the site. For the reasons stated above and fact that the road between the site and neighbour opposite creates a sense of separation, the development is considered to provide adequate outlook, privacy and light to the future occupiers. It is noted that the windows serving Bedroom 1 of units 4, 5, 6, 7 and 8 have a more restricted outlook than others serving the proposed development. They would still have sufficient light and privacy. On balance, whilst they are somewhat constrained, the development as a whole is still considered to provide an acceptable level of amenity for future residents, particularly when considering that this is a constrained town centre location.

It is noted that there would be no private amenity areas provided for this development, which is set out as a requirement in the Residential Design Guide. However, opportunities to provide private amenity space are very restricted within locations such as this within the town centre. Furthermore, development of this scale which are 1 and 2 bedroom flats, are likely to be occupied by couples or individuals who, within the town centres have less of an expectation for private amenity spaces, particularly when there are public open spaces within close walking distance of the site. For this reason, on balance it is not considered to be so harmful to the living conditions of the likely future occupiers not to be provided with a private amenity area to warrant reason for refusal. On this basis, no offsite financial contribution in lieu of the lack of its provision is required in this instance.

### *Noise*

The proposed development is a resubmission of W/22/0125 that was refused due to the reliance on closed windows for noise mitigation purposes and the absence of openable windows for natural ventilation on quieter facades. The building in question has been subject to a number of planning applications which have attracted objections from Environmental Health due to noise and air quality concerns arising from road traffic, adjacent commercial premises, and the car park platform at the rear of the site.

The location of the building and surrounding uses present difficulties in delivering a residential development without compromising the standard of amenity that would be provided for future occupiers. This application has sought to address

the Environmental Health Officer's previous objections by incorporating a lightwell at the rear of the premises. This intends to provide screening from the car park at the rear of the development to minimise adverse noise and air quality impacts but also provide access to openable windows for natural ventilation.

The noise planning practice guidance (N-PPG) (2019) says that adverse noise impacts can be partially off-set by having access to a relatively quiet façade containing windows to habitable rooms. The proposed lightwell provides openable windows to the proposed open plan kitchen-living rooms which would be considered habitable rooms under Parts B, F, and M of the Building Regulations. Due to road traffic noise on Willes Road, the proposed windows on the Cross Street (front) façade would still need to be kept closed if the recommended internal acoustic guidelines are to be achieved. This includes the proposed bedrooms that will not benefit from cross ventilation for the purposes of cooling under Approved Document O (ADO). As the measured noise levels at the front of the premises will exceed those stated in ADO where windows will likely need to be closed during sleeping hours, measures to limit overheating may be required such as limiting unwanted solar gains and/or means of removing heat from the indoor environment.

Information has been provided by the applicant which demonstrates that adequate noise mitigation and thermal comfort measures can be provided to ensure that the future residents to the satisfaction of the Environmental Health Officer. This will be provided via a mechanical ventilation heat recovery system for when windows are closed. The provision of windows at the rear of the property will also allow natural ventilation when occupants prefer to open their windows. The Environmental Health Officer has no objection to the development on this basis and has recommended conditions which secure the implementation of the approved details and their retention, which has been added.

On this basis, the development is considered to be in accordance with Local Plan policy BE3.

#### Car Parking and Highway Safety

Policy TR3 states that development will only be permitted which makes provision for adequate parking in accordance with the adopted Vehicle Parking Standards SPD. It is not possible to accommodate parking on site as part of the scheme. The Vehicle Parking Standards require 11 car parking spaces for a development of this scale.

Objectors of the proposal state that the development has inadequate parking provision and state that on street parking is at capacity on nearby streets and the development will add to this parking stress impacting on the amenity of existing residents. Members of the public raise doubts over the accuracy of the parking survey given the existing parking stress experienced by residents. The 'car free' development was welcomed by some members of the Conservation Area Forum as a bold commitment to sustainability, however others questioned how rigorously this would be enforced.

A unilateral undertaking has been provided in order to remove the rights of future occupiers from obtaining parking permits, owing to existing parking stress within on-street residential permit parking areas. However, it is noted by Officers that there are also unrestricted on-street parking areas within walking distance of the site, where future residents could park, which could potentially impact on highway safety and the amenity of existing residents. In accordance with the requirements of the Council's Vehicle Parking Standards guidelines, a parking survey was required in order to understand if the unrestricted areas could accommodate the additional parking demands.

The applicant has provided two parking surveys. The first surveyed on street restricted and unrestricted parking areas during two separate "night time" periods. The second survey also includes additional surveys, conducted during the day time when commercial uses are likely to be in use. The results of the surveys show that there is sufficient on-street parking capacity as a whole, both during day time and night time periods to accommodate the additional demand in 11 spaces within walking distance of the site. At worst, the surveys show there would be 54 spaces available within walking distance of the site, which is over 5 times the required number of spaces. At best, there is significantly more space available. Officers have no reason to doubt the reliability of these results as suggested by the neighbours, given that the survey was undertaken in accordance with the specification set out in the Vehicle Parking Standards.

It is noted however noted that there is a lack of capacity identified along Cross Street, with Clarendon Street and Willies Road also being heavily parked. Reasonably, future residents would expect to park within these streets in the first instance, being closest to the application site. Potentially therefore, the provision of 11 additional vehicles within these streets could impact detrimentally on the amenity of existing residents as they would likely be displaced. These roads however are all within permit parking areas. In order to resolve this issue, a unilateral undertaking which has been checked by the Council's Legal Services team and signed by the applicant revokes the rights from the future occupiers from applying for parking permits for these areas.

The parking survey shows that there would be sufficient space in unrestricted areas to accommodate the required level of additional parking generated by the proposed development. WCC Highways have no objection to the proposal on the basis of the information set out above.

A dedicated cycle storage area has also been provided, which shows capacity for 8 cycles which is in accordance with the requirements of the relevant standards.

The development is therefore considered to be in accordance with Local Plan Policy TR3.

### Ecological Impact

WCC Ecology assessed the application and note that the bat report submitted for this site is the same as for the previous application W/21/1029 carried out by Ridgeway Ecology in September 2021. In this case the report remains valid for this application and does not require updating. The proposals still involves demolition of the existing building with the likely impacts remaining the same.

Therefore the comments from WCC Ecology are the same as for the previous application. They recommend notes relating to bats, nesting birds and hedgehogs as protected species.

The recommended notes have been added. Therefore, it is considered that the proposed development would be in accordance with Local Plan policy NE2 and the NPPF.

#### Housing Mix

RLSNDP policy RLS5 states that within the Neighbourhood Area the housing mix and tenure should, where applicable:

- a) Be informed by a rigorous and up-to-date assessment of housing needs;
- b) Take opportunities to provide detached and semi-detached family homes which are currently underprovided; and
- c) Within South Leamington, seek to rebalance the existing rented/owner occupied mix by the provision of homes for affordable owner occupation.

Local Plan policy H4 states that the Council will require proposals for residential development 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. Policy H4 of the Local Plan also states that in assessing the housing mix in residential schemes, the Council may take into account certain circumstances where it may not be appropriate to provide the full range of housing types and sizes. One of these circumstances is for small sites of less than five houses and conversion schemes, where opportunities for a range of different house types are limited.

It should be noted that policy RLS5 above states that housing mix and tenure requirements should only apply *where applicable*. This is a small site of 8no. dwellings in sensitive area within the Conservation Area, and the town centre. Given the constrained nature of the site, it is concluded that the requirements of this policy are not applicable in this case. This was the same conclusion drawn under the previous application.

#### Waste

Waste Management have commented on the application and have no objection to the proposed development, subject to the provision of 1 x 1100L refuse bin and 2 x 1100L recycling bins. These are shown on the plans. A condition has been added to ensure that the bin store is retained in perpetuity.

#### Climate Change

Local Plan policy CC1 states that all development is required to be designed to be resilient to and adapt to future impacts of climate change through the inclusion of adaption measures. Requirements 'a', 'b' and 'c' of the policy (layout, building orientation, construction techniques, materials, natural ventilation, green spaces, water efficiency) can be controlled by condition which has been added. In regards to point 'd' of the policy regarding minimising flood

risk, it is noted that the site is located within Flood Zone 1, with the lowest probability of flooding and within the upper floors of the building. Therefore the development is not likely to cause increased risk of flooding.

Neighbourhood Plan Policy RLS2 states that new housing development should include design features and measures to reduce the impacts of climate change by increasing resilience to extreme weather events, including the increased risk of river and surface water flooding. Applicants should be able to demonstrate that their proposals are water efficient and that unless not reasonably practicable the design includes water efficiency and re-use measures. A condition has been included to ensure compliance with Local Plan Policy FW3 and RLS2 of the Neighbourhood Plan.

Subject to conditions, the proposal is considered to be in accordance with Local Plan policy CC1.

#### Air Quality

The existing car parking requirement for the offices is 20 spaces. The car parking requirements for the proposed development is 11 spaces, resulting in an overall net reduction in vehicle movements associated with the site. For this reason, it would not be reasonable to insist on air quality mitigation measures, as the development would likely result in an improvement to air quality, owing to the reduced number of vehicular movements associated with the development. Notwithstanding this, the plans show two electric cycle charge points within the cycle storage area.

#### Other Matters

The Environmental Health Officer has confirmed that there is the potential for contamination to be present at the site as a result of former commercial uses and levelling activities. They recommend that a condition is attached which requires that if any contamination is found, this is reported to the Local Planning Authority. This has been added.

Members of the public suggest that the development devalues nearby properties and will reduce their ability to sell in future. However, this is not a material planning consideration.

Members of the public also state that comments raised by members of the public on the previous application were ignored. However, Officers do not consider this to be the case, all comments raised by members of the public and other consultees were addressed fully within the Case Officer Report.

#### **Conclusion**

The previous application for 8no flats (W/22/0125) was refused only on the grounds that it did not provide satisfactory living conditions for the future occupants of the properties. There has been much negotiation between the applicant and Environmental Health Officer to ensure that the development will now ensure a satisfactory living environment for future residents. The development is considered to preserve the setting of the Conservation Area, would



have an acceptable impact on residential amenity, ecology and provides suitable parking arrangements. On this basis, it is considered that the previous reason for refusal has been overcome, and therefore the application is recommended for approval.

## **CONDITIONS**

- 1 The development hereby permitted shall begin not later than three years from the date of this permission. **Reason:** To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawings 3215-s3-500 (section) submitted on 14th October 2022, 3215-s3-200-h (elevations) and 3215-s3-100-k (floor plans) submitted on 12th December 2022 and 3215-s3-300-k (site plan) submitted on 13th December 2022 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 Notwithstanding details contained within the approved documents, prior to commencement of development, a Sustainability Statement including an energy hierarchy scheme and a programme of delivery of all proposed measures shall be submitted to and approved in writing by the Local Planning Authority. The document shall include;
  - a) How the development will reduce carbon emissions and utilise renewable energy;
  - b) Measures to reduce the need for energy through energy efficiency methods using layout, building orientation, construction techniques and materials and natural ventilation methods to mitigate against rising temperatures;
  - c) How proposals will de-carbonise major development;
  - d) Details of the building envelope (including U/R values and air tightness);
  - e) How the proposed materials respond in terms of embodied carbon;
  - f) Consideration of how the potential for energy from decentralised, low carbon and renewable energy sources, including community-led initiatives can be maximised;
  - g) How the development optimises the use of multi-functional green infrastructure (including water features, green roofs and planting) for urban cooling, local flood risk management and to provide access to outdoor space for shading,

No dwelling shall be first occupied until the works within the approved scheme have been completed in strict accordance with the approved details and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturer's specifications.

**REASON:** To ensure the creation of well-designed and sustainable buildings and in accordance with Policies CC1 and CC3 of the Warwick District Local Plan (2011-2029) and National Design Guidance (2019).

- 4 No development shall be carried out above slab level unless and until a hard and soft landscaping scheme has 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 and gates; 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; 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 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 and NE4 of the Warwick District Local Plan 2011-2029.
- 5 No development shall be carried out above slab level unless and until a surface water outfall assessment, following the Drainage Hierarchy (National Planning Practice Guidance, paragraph 80) to determine if there are viable alternatives to existing connections to the combined sewer network has been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details. **Reason:** To satisfy the requirements of Policy RLS1 of the Royal Leamington Spa Neighbourhood Development Plan 2020 - 2029.
- 6 The development hereby permitted shall not be occupied unless and until a scheme showing how a water efficiency standard of 110 litres per person per day based on an assumed occupancy rate of 2.4 people per household (or higher where appropriate) will be achieved has been submitted to and approved in writing by the Local Planning Authority. No dwelling/ unit shall be first occupied until the works within the approved scheme have been completed for that particular dwelling / unit in strict accordance with the approved details and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturer's specifications. **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.

- 7 No development shall be carried out above slab level 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. **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 and BE3 of the Warwick District Local Plan 2011-2029.
- 8 No development shall be carried out above slab level unless and until samples of the external facing materials to be used have been submitted to and approved in writing by the Local Planning Authority. The development shall only 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.
- 9 The development hereby permitted shall not be occupied unless and until the secure cycle parking and manoeuvring area indicated on the approved drawings has been provided and thereafter those areas shall be kept available for such use at all times. **Reason:** To promote sustainable transport patterns in accordance with policy TR1 of the Warwick District Local Plan 2011-2029.
- 10 The development hereby permitted shall not be occupied unless and until the refuse and recycling storage areas for the development have been constructed or laid out in strict accordance with the approved plans, and made available for use by the occupants of the development. Thereafter those areas shall be kept free of obstruction and be available at all times for the storage of refuse and recycling associated with the development. Refuse and recycling storage containers must be stored within the refuse and recycling storage area shown on the approved plans, unless when being presented on street for collection facilities. **Reason:** To ensure the satisfactory provision of refuse and recycling 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.
- 11 The development hereby permitted shall not be occupied unless and until the approved noise mitigation and thermal comfort measures have been implemented in full accordance with the approved details contained within the following documents: 16 Cross Street, Leamington Noise Assessment by Inacoustic, dated 13th October 2022; letter dated 15th November 2022 from Neil Morgan, Inacoustic titled "RE: 16 Cross

Street, Leamington Spa - Planning Stage Noise Impact Assessment. Supplementary Information."; and drawing 3215-900 (sun path analysis). These measures shall be retained in accordance with the approved details in perpetuity. **Reason:** To ensure that future occupants do not experience unacceptable levels of noise or thermal discomfort, in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.

- 12 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken, and where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority. **Reason:** To safeguard health, safety and the environment in accordance with Policies BE3 and NE5 of the Warwick District Local Plan 2011-2029.

- 13 Prior to the occupation of the development hereby permitted, all side facing windows in the east and west elevations 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.
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