

**List of Current Planning and Enforcement Appeals
March 2019**

Public Inquiries

Reference	Address	Proposal and Decision Type	Officer	Key Deadlines	Date of Hearing/Inquiry	Current Position
W/17/1470	Land at Leamington Shopping Park	3 x A1 retail units Committee Decision in accordance with Officer Recommendation	Rob Young	Questionnaire: 11/7/18 Statement: 8/8/18 Comments:	12-14 Feb 2019	Appeal Allowed

The Inspector was mindful of the Council's latest Retail & Leisure Study⁴ (R&LS), published in July 2018, which was commissioned by the Council to help inform both plan-making and development management decisions across the District. This Study explains that although there is a District-wide need for up to 3,507 sqm of convenience goods floorspace, and for up to 13,396 sqm of comparison goods floorspace over the WDLP Plan period to 2029, the Council has not identified any new or emerging sites in and/or on the edge of Royal Leamington Spa, Warwick and Kenilworth town centres (with the exception of Chandos Street, referred to above). Nor is there any indication that the Council is keeping town centre boundaries under review to address this matter, as also sought by Framework paragraph 85(d).

But notwithstanding this he noted that a previous scheme to redevelop the Chandos Street car park, and land around it⁵, would have provided a shopping centre with a floorspace of some 21,5006 sqm – well in excess of the areas referred to by the 2018 R&LS. Whilst he acknowledged that this earlier proposal was refused planning permission, and that there is no current scheme to develop this land, the Policy TC4 allocation of Chandos Street as a town centre development allocation does, potentially, seem capable of providing the floorspace quantum set out in the 2018 R&LS. As such, he was not persuaded by the appellant's criticisms of Policy TC5.

The SoCG on Planning Matters, agreed between the parties, stated that the only sites of relevance to the sequential test are Chandos Street surface car park and Unit SU1C Livery Street in Royal Leamington Spa, and Talisman Square in Kenilworth. Although not identified in the SoCG the Council also argued that the former Co-op site at 52-60 Warwick Street, Royal Leamington Spa should be considered as a potential, sequentially preferable site.

There was no dispute between the parties that the Chandos Street development would be large enough to accommodate the appeal proposal – as part of a comprehensive development – but it was also agreed that the site is not available now. What was not agreed was whether this site can be

considered likely to become available within a reasonable period.

The Inspector identified some complications with development on the Chandos Street site, as its availability is intimately linked with development proposed for the Covent Garden multi-storey car park (MSCP).. This existing MSCP, which currently provides some 468 spaces, needs to be replaced because it is suffering from major structural problems. Planning permission was granted in April 2018 for a replacement MSCP on the site, along with new town centre apartments and new office buildings for the Council. The Chandos Street car park has to remain available for parking until the replacement Covent Garden MSCP has been constructed and is open for use.

He saw no reason why this policy cannot be successfully implemented during the WDLP's lifetime, but it is clear that things have not progressed as quickly as the WDLP Inspector envisaged. Rather than being available for development at the end of 2018, the 2018 R&LS indicated that the new Covent Garden MSCP was not expected to be developed and fully operational until 2022. Indeed, this Study goes on to suggest that Chandos Street is likely to be available for development within the next 3-5 years, and therefore represents a viable site over the medium term.

The Council made it plain that any development scheme for the Chandos Street site would likely be smaller than the one refused planning permission in 2011, but it would still require additional land from other owners and occupiers, and would be likely to have an impact on a number of listed and unlisted buildings. As no work has yet commenced on preparing a detailed scheme for this site, and in view of the uncertainties as to when the replacement Covent Garden MSCP will be available, and the potential delays which the need for a CPO could entail, he concluded that the Chandos Street car park site is unlikely to become available within a reasonable period. Despite being an allocated site in the WDLP it cannot, therefore, be seen as a sequentially preferable site for the appeal proposal.

The Inspector considered that neither of the Royal Leamington Spa sites discussed – the former Co-op at 52-60 Warwick Street (378 sqm net internal area) and Unit SU1C at Livery Street (409 sqm gross) - would be able to accommodate anything other than the smaller of the 2 proposed non-food units. In any case, he shared the appellant's view that as residential uses have now been established on the upper floors of the former Co-op, servicing of the ground floor retail unit could potentially conflict with pedestrian access to Flats 1-4 in an awkward and undesirable way; and whilst Unit SU1C is a little larger, the evidence was that this unit is currently under offer and may no longer be available.

Insofar as Talisman Square at Kenilworth is concerned, Again, he considered that these retail units would only be able to accommodate the smaller of the 2 proposed non-food units, unless some amalgamation of units was considered. But even then, this development would not be able to accommodate the entire appeal proposal, nor would it be able to reasonably accommodate the proposed M&S Foodhall.

Drawing all the above points together, he considered that disaggregation of the proposed scheme should not be ruled out in the particular circumstances of this case, so as to ensure that matters of flexibility regarding format and scale are properly addressed. However, no suitable, sequentially preferable sites capable of accommodating the proposed development have been shown to be available, or likely to become available within a reasonable time-scale. Because of this I therefore conclude that the appeal proposal satisfies the sequential test. For these reasons, and as the appeal units are generally larger than most of those proposed at Talisman Square, I do not consider that the appeal proposal would have an unacceptable impact on this committed or planned investment at Talisman Square.

The R&LS summarises Royal Leamington Spa town centre as being vital and viable and benefiting from historic architecture, an attractive setting, and breadth in offer. It states that the town centre has the potential to capitalise on this setting, and that regeneration opportunities for the Old Town provide an important catalyst for future enhancement in the offer available within the town centre as a whole.

He considered that that there is no dispute that Royal Leamington Spa is currently a vital and viable town centre, with a vacancy level which has fallen since the time of the Homebase appeal in 2015, and with the most comprehensive evidence on pedestrian flows showing that they have been more or less stable since 2014. There also appears to be relatively strong retailer demand for a presence in Royal Leamington Spa, and the agreed level of trade draw predicted from the appeal proposal was in his view very modest. In these circumstances he concluded that notwithstanding the uncertainties regarding House of Fraser, the appeal proposal would not have a significant adverse impact on the vitality and/or viability of either Royal Leamington Spa or Kenilworth town centres.

Written Representations

Reference	Address	Proposal and Decision Type	Officer	Key Deadlines	Current Position
W//18/0011	Gospel Oak Farm, Rising Lane, Lapworth	Change of Use of Outbuilding to Dwelling Delegated	Lucy Hammond	Questionnaire: 11/10/18 Statement: 8/11/18 Comments: 22/11/18	Ongoing
W/18/0986	Ivy Cottage, Barracks Lane, Beausale	One and two Storey Extensions Committee Decision in accordance with Officer Recommendation	Rebecca Compton	Questionnaire: 23/10/18 Statement: 14/11/18 Comments:	Ongoing
W/18/0607	Sunnyside, Old Warwick Road, Lapworth	2 Dwellings Delegated	Helena Obremski	Questionnaire: 26/11/18 Statement: 24/12/18 Comments: 7/1/19	Ongoing

W/18/0803	17 Gaveston Road, Leamington	Change of Use to HMO Committee Decision contrary to Officer Recommendation	Helena Obremski	Questionnaire: 29/11/18 Statement: 27/12/18 Comments: 10/1/19	Appeal Allowed
<p>The Council's Vehicle Parking Standards SPD requires 1 space per 2 bedrooms for HMOs. The proposal would provide 5 bedrooms, therefore requiring 3 parking spaces. The requirement for the existing residential use would be 2 spaces. There is parking provision in the rear garage for 1 vehicle. To fully comply with the SPD guidelines there would be a shortfall of 1 parking space. However, the SPD also indicates that a reduced level of parking can be acceptable in some circumstances, including, in summary, where there would be no adverse effects on highway safety and the convenience of nearby occupiers, and where the development would meet other planning objectives and would not unacceptably worsen the parking situation.</p> <p>The Inspector noted that there are no parking restrictions on the adjacent roads and few on-street car parking spaces were available at the time of his site visit. Nonetheless, there remained several spaces within a reasonable walking distance of the appeal property. He also considered the comments and photographs submitted by local residents relating to car parking pressures in the locality and noted the reports produced for the Gaveston Road/Greatheed Road/Freemans Close Residents Association, including an assessment of parking in the locality based on the "Lambeth Methodology". She did not doubt that there is a greatly increased parking demand in the area around the beginning and end of the school day. However, she noted that this would be for temporary periods during term time and would not in itself justify withholding planning permission. She further noted that the Highway Authority raised no objection to the proposal.</p> <p>The Inspector was satisfied that the minor increase in demand for parking arising from the proposed development would not worsen the existing situation to a degree that would amount to harm to highway safety or to residential amenities. Furthermore, the change in circumstances could not reasonably be described as "severe" as set out in the NPPF. She went on to add that Incidents of unsafe parking, including on street corners, double parking and parking on pavements are more appropriately controlled by other legislation.</p>					
W/18/0683	Lime Garage, Myton Road, Warwick	Change of use from car Showroom to Estate Agents and Sales Hub Delegated	TBC	Questionnaire: 4/1/19 Statement: 22/1/19 Comments: 5/2/19	Ongoing
W/18/1071	121 - 123 Warwick Road, Kenilworth	Revised proposals adding additional bedrooms and making other changes to existing planning permission for change of use to student accommodation. Committee Decision contrary to Officer Recommendation	TBC	Questionnaire: 16/1/19 Statement: 13/2/19 Comments: 27/2/19	Ongoing

W/18/1392	13 Clapham Street, Leamington	Single Storey Extension Delegated	Emma Booker	Questionnaire: 21/12/18 Statement: 14/1/19 Comments:	Appeal Dismissed
<p>The appellant drew attention to two extant proposals at the appeal site for rear extensions. The second proposal has a larger footprint than the first, and both have a smaller footprint than the current proposal. Also, the appellant considers he has Permitted Development Rights to erect a two metre high boundary wall and to cover 50% of the rear courtyard with an outbuilding. However, the Inspector noted that case law has established that material considerations, regarding the use of permitted development rights and the <i>fall-back</i> position, must be real and not just theoretical. The appellant would need to demonstrate a reasonable possibility that if the application was refused the alternative would take place. It would also need to be shown that this would be less desirable than that for which permission is sought.</p> <p>In this case, the Inspector was satisfied that the proposal would be materially different to the extant approval. The proposal has a higher ridge height, and projects around three metres further to the rear, where it is adjacent to the shared boundary. Consequently, the larger of the two previous approvals would have a lesser effect on the neighbour's living conditions than the proposal. Also, he considered it unlikely that the appellant would implement the maximum permitted development rights described, as it would materially affect their own access to light for both the courtyard and ground floor windows. Consequently, the Inspector applied limited weight to both the extant approvals and the effect of permitted development.</p> <p>The extension approved at 263 Rugby Road, is similar to the proposal in some regards, but this approval was determined by the Council in 2015. This was before the SPD was adopted and as such the Inspector only afford this limited weight.</p> <p>He noted that the breach of the Council's 45-degree code is worsened due to the existing 'tunnelling affect' of both two-storey rear protecting wings either side of the shared boundary. Moreover, daylight would be materially reduced further to the living/dining room due to the proposal's extent of rear projection and its proximity, being located on the boundary. The use of glass in the roof would reduce some of the effects, but the framing and brick upstand in the centre of the ridge, would result in the creation of a mostly solid shape. He concluded that the effect on the ground floor habitable room of No 14 would be substantial, both in terms of access to light and by being overbearing.</p> <p>The proposal would enclose most of the rear courtyard and wrap around the existing rear wing. This would be contrary to the Council's design SPD, as it would project beyond the end of the existing rear wing and be the full width of the plot. He noted that the most recent approved scheme (W/18/0797) also exceeds this guidance but predates the conservation area designation. He noted that the general form of the proposal would be discordant with established design advice. Even though it is of a simple design, its width and depth (and therefore scale) would be out of keeping with the surrounding area. Therefore, the proposal would not preserve or enhance the character of the CCA, even if it has only a limited effect on the canal itself.</p> <p>He considered there would be sufficient amenity space despite being below the Council's numerical requirement as set out in the SPD.</p>					

W/18/1550	West Hill, Westhill Road, Cubbington	Detached Garage and Walled Courtyard Committee Decision in accordance with Officer Recommendation	Emma Booker	Questionnaire: 25/12/18 Statement: 16/1/19 Comments:	Ongoing
W/18/1676	Glenshee, 93 Chassetts Wood Road, Lapworth	Hip to Gable Roof Extension and Dormer Extensions Delegated	Emma Booker	Questionnaire: 11/1/19 Statement: 4/2/19 Comments:	Ongoing
W/18/1754	27 Ledbrook Road, Cubbington	Single Storey Extensions Delegated	Emma Booker	Questionnaire: 9/1/19 Statement: 31/1/19 Comments:	Ongoing
W/18/0850	The Stables, 92 Bridge End, Warwick	Various extensions and alterations Delegated	George Whitehouse	Questionnaire: 25/12/18 Statement: 16/1/19 Comments:	Appeal Dismissed

The Council's reason for refusing the appeal application focused on a proposed third dormer window which would be inserted between 2 on the rear elevation. The Inspector considered that the significance of the CA which is relevant to this appeal includes the frequent use of gables and dormer windows in the front and rear elevations of many buildings in the locality and are intrinsic to the character of the CA. He observed that in Bridge End itself, a number of houses contain traditional dormer windows with tiled roofs, including some which have several. However, he saw no examples of dormer windows arranged as was proposed in this appeal. He considered that the additional dormer would result in a series of 3 separate, but closely spaced, dormer windows. Their linear arrangement, including the ratio of the windows to the roof area around them, would dominate the roof and appear out of proportion with its size and scale. Notwithstanding that the vertical emphasis of their glazing and the proportions would match the approved ground floor windows and when considered together with the existing dormers, the additional dormer would result in a somewhat bulky roof-level addition with an uncharacteristically horizontal emphasis. This would be out of keeping with the appeal property (as it is to be altered) and would fail to preserve the character of the surrounding CA. Although the additional dormer window would be at the rear of the property, it would be visible to the public from the gardens of nearby properties. In any event, he noted that harmful design should not be permitted.

W/18/1292	1 Nursery Lane, Leamington	New Dwelling Delegated	Helena Obremski	Questionnaire: 4/1/19 Statement: 22/1/19 Comments: 5/2/19	Ongoing
W/18/1231	Calmonfre, Haseley KNob	First Floor Side extension Committee Decision in accordance with Officer Recommendation	Liz Galloway	Questionnaire: 15/1/19 Statement: 6/2/19 Comments:	Ongoing
W/18/1568	3a Oxford Street, Leamington	Canopy and Bay Window Delegated	Rebecca Compton	Questionnaire: 14/1/19 Statement: 5/2/19 Comments:	Appeal Allowed
<p>The Inspector noted that all of the window openings in the rear façade of Nos. 1 & 3, and 3A are framed in UVPC, and the main entrance door to 3A, immediately below the bay window, is also constructed in UVPC. Since the rear façade is not readily seen, he considered that the past use of UVPC is not visually significant. In these circumstances he felt that the material used to construct the bay window is not out of place. The Inspector did not share the Council's view as to the window's design, and its impact on the host property and CA considering that the bay window is of a functional, modern design not inappropriate in this secluded location. The bay window is sited at very close quarters to the rear of No 1 Oxford Place, which appears to have been considerably modified by flat roofed extensions, which dominate this secluded rear area. In this visual context, the bay window would go almost unnoticed, and the visual impact of the proposal on its surroundings is minimal and not unacceptable.</p>					
W/17/1408	41 – 43 Clemens Street, Leamington	4 no. 1 bed flats Delegated	Helena Obremski	Questionnaire: 14/12/18 Statement: 11/1/19 Comments: 25/1/19	Ongoing

W/18/1953	22 Rouncil Lane, Kenilworth	Ground and first floor extensions Delegated	Liz Galloway	Questionnaire: 23/1/19 Statement: 14/2/19 Comments:	Appeal Dismissed
<p>The Inspector observed that the houses on the north side, whilst not uniform in design, tend to have single garages which are generally attached and in line with the front of the individual house. This creates a degree of openness between houses particularly when two garages are either side of a common boundary and retain the characteristics of detached houses. The gaps provide visual relief and allow appreciation of mature vegetation in rear gardens. He considered that the proposed single storey extension with roof addition would, however, fill the gap between the appeal dwelling and No 20 at first floor level. The filling of the gap would create a terracing effect which would not be in keeping with the character of this part of the road. The proposal would increase the sense of enclosure, reducing the opportunity for glimpsed and incidental views between the properties. He therefore concluded that the first floor extension would, therefore, materially harm the character and appearance of the area.</p>					
W/18/1367	Dial House Farm, Ashow Road, Ashow	Removal of Agricultural Occupancy Condition Delegated	Angela Brockett	Questionnaire: 13/2/19 Statement: 13/3/19 Comments: 27/3/19	Ongoing
W/18/0356	Moorfields Rugby Club, Kenilworth Road, Blackdown	Use of part of Car Park as Hand Car Wash Committee Decision in accordance with Officer Recommendation	Dan Charles	Questionnaire: 14/2/19 Statement: 14/3/19 Comments: 28/3/19	Ongoing
W/18/1671	Land at Little End, Hunningham	Agricultural Building Delegated	Dan Charles	Questionnaire: 13/2/19 Statement: 13/3/19 Comments: 27/3/19	Ongoing

W/18/1779	170 Emscott Road, Warwick	Alterations and Extension to Form Flat Delegated	Helena Obremski	Questionnaire: 27/2/19 Statement: 27/3/19 Comments: 10/4/19	Ongoing
W/17/2414	Huntley Lodge, 47 Northumberland Road, Leamington	2 Dwellings and 6 Apartments Delegated	Helena Obremski	Questionnaire: 14/2/19 Statement: 14/3/19 Comments: 28/3/19	Ongoing
W/18/1049	1 Tancred Close, Leamington	Change of Use to Gymnasium Delegated	Helena Obremski	Questionnaire: 14/2/19 Statement: 14/3/19 Comments: 28/3/19	Ongoing
W/18/1821	Flat 2, 99 Upper Holly Walk, Leamington	Erection of Balcony Delegated	Rebecca Compton	Questionnaire: 14/2/19 Statement: 14/3/19 Comments: 28/3/19	Ongoing
W/17/2387	Land South of Lloyd Close, Hampton Magna	Outline Application for up to 147 Dwellings Delegated	Lucy Hammond	Questionnaire: 14/2/19 Statement: 14/3/19 Comments: 28/3/19	Ongoing

New W/18/2258	Roundhill Farm, Rouncil Lane, Kenilworth	Removal of Condition relating to Occupancy Delegated	Helena Obremski	Questionnaire: 20/3/19 Statement: 17/4/19 Comments: 1/5/19	Ongoing
New W/18/0163 and 0164/LB	60-62 Regent Street, Leamington	Alterations and Change of Use of Upper Floors to Residential Use Delegated	George Whitehouse	Questionnaire: 14/3/19 Statement: 11/4/19 Comments: 25/4/19	Ongoing
New W/18/2120	50 Clarendon Avenue	Extensions and Alterations Delegated	Liz Galloway	Questionnaire: 5/3/19 Statement: 27/3/19 Comments: -	Ongoing

Enforcement Appeals

Reference	Address	Issue	Officer	Key Deadlines	Date of Hearing/Inquiry	Current Position
ACT 474/16	4A Wise Terrace, Leamington Spa	Use of Flats as HMOs	Rob Young	Statement: 7/12/18 Final Comments: 28/12/18 Evidence: 11/2/19	26/3/19 over 3 days	Ongoing