

**Planning Committee:** 22 July 2014

**Item Number:** 6

**Application No:** W 14 / 0572

**Town/Parish Council:** Kenilworth

**Case Officer:** Jo Hogarth

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**Registration Date:** 25/04/14

**Expiry Date:** 20/06/14

**1 Tulip Tree Avenue, Kenilworth, CV8 2BU**

Erection of a first floor side and extension and single storey rear extension FOR  
Mr Hall

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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 as well as a request from Cllr Shilton. The site was visited by Members on 21 June 2014.

It was deferred from your last meeting in order to enable the applicant to register to speak.

**RECOMMENDATION**

Planning Committee are recommended to grant planning permission subject to conditions.

**DETAILS OF THE DEVELOPMENT**

The application relates to the erection of a first floor side extension and single storey rear extension.

**THE SITE AND ITS LOCATION**

The application site comprises of a detached dwelling situated close to the southern western corner of the junction of Tulip Tree Avenue and Windy Arbour. It is the end property of a staggered row of dwellings of various types fronting the south east of Tulip Tree Avenue. There is a single storey flat roofed garage to the side of the property which is set approximately 1.2 metres from the side boundary with number 3 Tulip Tree Avenue. Number 3 has two ground floor side facing windows serving a lounge and dining room together with a side facing first floor bedroom window.

**PLANNING HISTORY**

In 2013 (ref: W/13/1518) planning permission was sought for a similar development however was withdrawn. A further application (ref: W/14/0113) was submitted for a first floor side extension with front and rear facing dormer windows, this was refused on grounds that the development would result in a disproportionate dwelling and would harm the streetscene. Furthermore, the

proposal would be unneighbourly by reason of Policy DP2 and would result in loss of light.

### **RELEVANT POLICIES**

- National Planning Policy Framework
- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP3 - Natural and Historic Environment and Landscape (Warwick District Local Plan 1996 - 2011)
- BE1 - Layout and Design (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- BE3 - Amenity (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- Residential Design Guide (Supplementary Planning Guidance - April 2008)

### **SUMMARY OF REPRESENTATIONS**

**Kenilworth Town Council:** Object as they considered that an important issue was the likely adverse impact of loss of light to windows in the neighbouring property at 3 Tulip Tree Avenue. Officers attention is drawn to these windows as they considered that they were worthy of further investigation. If WDC was minded to approve the application, the Members strongly recommended that a site visit be undertaken.

A Member wished to speak against this proposal but unfortunately, due to other commitments, no one is available. A WDC Ward Cllr was intending to attend to speak against, but we believe that (at the time of writing) this may not be possible. However, Members have asked that since they considered the application they have seen and support the neighbours comments, including in the technical and other aspects of their objection.

**Cllr Shilton:** Recommends a committee site visit and objects as the new plan still does not address the loss of light to the ground floor windows of number 3 Tulip Tree Avenue.

**WCC Ecology:** Recommend bird and bat notes.

**Public response(s):** 7 letters of objection have been received on grounds that the proposal would be unneighbourly; out of keeping with the area due to the roof pitch and overbearing impact on number 3 Tulip Tree Avenue. In particular the application fails to protect light to the side facing windows in number 3, breaching BRE 209 right to light and in conflict with the Residential Design Guide, and Local Plan Policies.

A letter from the applicant in response to the objections has been received. It states that removing the flat roof above the garage is an improvement and as such will harmonise and enhance the appearance of the property. There is no right to light under planning law and there would be no noticeable reduction in daylight to the upstairs window. The dormers are situated appropriately and sensitively within the roof slope, away from the ridge level. Several of the letters are not from immediate neighbours as they live across Kenilworth. The BRE guidelines are not a rigid set of rules and the guidelines state that the degree of light should be taken from a main room window and the side facing windows are not main windows. The civil right to light is a separate claim and does not form part of the application. Additionally, the neighbour has commented that the BRE 2009 guidelines in respect to sunlight confirms that the side windows are primary windows to their property.

## **ASSESSMENT**

It is considered that the key issues relating to this proposal to be:

- Design and impact on the streetscene
- Impact on neighbours

### **Design and impact on the streetscene**

The application as now submitted has been the subject of pre-application discussions and the design of the first floor extension amended to address the previous reasons for refusal. The design of the roof has been set down from the ridge of the main house and is hipped away from number 3 Tulip Tree Avenue. The pitch of this hip would not match the main roof of the dwelling as it has been designed to enable a 25 degree plane to be taken from the first floor side window of number 3, taken from the mid point. It is not considered that this would result in significant harm to the visual character or appearance of the streetscene such that it would justify refusal on these grounds as there is no uniform house type within this street. In this instance it is not considered that the underlying objectives of Policy DP1 in the Local Plan or indeed the guidance contained in the Council's adopted Residential Design Guide have been undermined. The front and rear facing dormer windows are required to serve an ensuite and a bedroom and have a flat roof design, set within the roofslope of the proposed extension. It is considered that these are acceptable within the streetscene.

The design of the single storey rear extension is acceptable and would have a mono-pitched roof across part of the rear of the house. It is considered that there would be no conflict with Policy DP1 or the Residential Design Guide.

### **Impact on neighbours**

The objections received highlight the two ground floor side facing windows serving a lounge and dining room to number 3 Tulip Tree Avenue and that there would be a significant loss of light into these rooms. These rooms both have primary front and rear facing windows in addition to the side windows. It is

considered that as secondary side facing windows, these are not afforded the same protection as primary windows. The occupiers of number 3 Tulip Tree Avenue state that the Council have not adhered to the use of The Building Research Establishment's (BRE) 209 guidelines and their civil legal right to light. Whilst this guidance is recognised, the Council has no formal adoption of this as a policy upon which to assess side facing windows and therefore little weight can be attached to this. In terms of impact on occupiers of number 3, it is considered that the proposed extension would not result in loss of privacy or significant loss of outlook from the first floor bedroom window given the distance of the hipped roof which would be 5.7 metres away at its highest point (where it marries into the main roof). It is considered that the proposal is acceptable in meeting Policy DP2 in the Local Plan.

### **SUMMARY/CONCLUSION**

In the opinion of the Local Planning Authority, the proposed development is of an acceptable standard of design which would harmonise with the design and appearance of the main dwelling and its surroundings and does not result in an unacceptable adverse impact on the amenity of nearby residents by reason of overbearing effect, loss of light or privacy. The proposal is therefore considered to comply with the policies listed.

### **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 numbers 7632-01 Rev B and 7632-02 Rev A, and specification contained therein, submitted on 25 April 2014. **REASON :** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.
- 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 DP1 of the Warwick District Local Plan 1996-2011.

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