Planning Committee
Thursday 20 May 2021

A meeting of the above Committee will be held in the Town Hall, Royal Leamington Spa on Thursday 20 May 2021, at 6.00pm and available for the public to watch via the Warwick District Council YouTube channel.

Councillor M Ashford
Councillor A Boad
Councillor G Cullinan
Councillor R Dickson
Councillor T Heath
Councillor O Jacques
Councillor J Kennedy
Councillor V Leigh-Hunt
Councillor T Morris
Councillor N Murphy
Councillor N Tangri

Emergency Procedure

At the commencement of the meeting, the emergency procedure for the Town Hall will be announced.

Agenda
Part A – General

1. **Apologies & 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 disclosed 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.

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4. **Minutes**

To confirm the minutes of the meeting held on 27 April 2021.

(To follow)

Part B – Planning Applications

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

5. **W/21/0256 – The Old Golf Shop and Golf Course, Newbold Comyn Park, Newbold Terrace East, Royal Leamington Spa (Pages 1 to 24)**
Major Application

6. **W/20/2035 – 9 Camberwell Terrace, Royal Leamington Spa (Pages 1 to 8)**

Part C – Other matters

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 the Council's Public Speaking Procedure, members of the public can address the Planning Committee meeting remotely by joining the remote meeting through their personal device on any of the planning applications or Tree Preservation Order reports being put before the Committee. If you wish to do so, please register online at Speaking at Planning Committee any time after the publication of this agenda, but **before 10.00am** 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 website, and where possible, the applicant and all registered speakers (where applicable) will be notified.

Published Wednesday 12 May 2021

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E-Mail: committee@warwickdc.gov.uk

For enquiries about specific reports, please contact the officers named in the reports. You can e-mail the members of the Committee at planningcommittee@warwickdc.gov.uk

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Planning Committee

Minutes of the remote meeting held on Tuesday 27 April 2021 at 6.00pm, which was broadcast live via the Council's YouTube Channel.

Present: Councillor Boad (Chairman); Councillors Ashford, Cullinan, R. Dickson, Grainger, Heath, Jacques, Kennedy, Leigh-Hunt, Morris and Tangri.

Also Present: Civic & Committee Services Manager – Mrs Onib; Committee Services Officer – Mr Edwards; Legal Advisor – Mrs Gutteridge; and Manager – Development Services -Mr Fisher.

136. **Apologies and Substitutes**

(a) there were no apologies and

(b) there were no substitutes.

137. **Declarations of Interest**

There were no declarations of interest made.

138. **Site Visits**

There were no arranged site visits made by the Committee, but Councillor Jacques had independently visited the following application site:

W/20/1818 - 45 George Street, Royal Leamington Spa

139. **Minutes**

The minutes of the meeting held on 30 March 2021 were taken as read and signed by the Chairman as a correct record.

140. **W/20/1464 - Shires Gate Trade Park, Unit 1, Tachbrook Park Drive, Warwick**

The application was removed from the agenda by officers to enable further consultation with local residents to take place.

141. **W/20/1818 - 45 George Street, Royal Leamington Spa**

The Committee considered an application from Mr Sahota for the erection of a dormer window to the rear roof slope to facilitate a loft conversion.

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

The proposal was considered acceptable and was recommended for approval on the basis that it successfully satisfied the criteria of the Local Plan policies BE1, HE1, HE2, BE3, TR3 and NE2 and Policy RLS3 of the Neighbourhood Plan.

An addendum circulated prior to the meeting advised Members of an amendment to condition 2 of the report, which sought to change the material of the dormer from hanging tile to lead. However, changes were also inadvertently made to the basement layout which departed from what had been agreed with Private Sector Housing and which had gone unnoticed until after the agenda had been published. A subsequent drawing had been received which maintained the lead dormer but reverted the basement layout to the one previously agreed with PSH and the one which the assessment in the report was based upon.

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

The Committee therefore

Resolved that W/20/1818 be granted, subject to the following conditions:

No	Condition
1.	the development hereby permitted should begin no 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 drawing 4051-02F, and specification contained therein, submitted on 26th April 2021. **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.

142. **Land Off Rugby Road and Coventry Road, Cubbington**

With the Chairman's approval, the Committee considered an urgent item from Bellway Homes for a proposed Deed of Variation to a signed Section 106 agreement, which related to planning permission W/17/2371, which was previously presented to Planning Committee on September 11 2018. The recommendation to Committee was to grant planning permission, subject to the various conditions listed in the report, as well as a Section 106 Agreement to secure a range of obligations from the Owner. The Section 106 was thereafter signed, and the decision issued on 29 March 2019.

The application site was now well advanced, and the applicants were in the process of negotiating for the provision of the affordable housing with a registered social landlord.

In addition to the above, planning permission was further granted for an additional 13 units through the sub-division of some of the larger four and five bedroom properties into 2 and 3 bed units

It was recommended that the application should be granted, subject to the signing of a Section 106 Agreement on 23 July 2020 and this was currently pending the outcome of this Deed of Variation.

During the negotiations into the transfer of the affordable housing to a registered provider, it had become apparent that the standard Mortgagee in Possession (MIP) Clause used within the standard Section 106 template did not conform with the requirements of affordable housing operators, which was causing difficulty obtaining an agreement.

The revision proposed also sought to provide the additional affordable housing units approved under W/20/0502 across the wider site approved under W/17/2371.

The requirement under this application sought an additional 5 affordable housing units to be provided. In order to facilitate this, it was proposed to amalgamate the units across the site. 2 units would remain within the application red line area associated with W/20/0502, with the additional 3 units being dispersed into the wider site area as approved by W/17/2371.

The Deed of Variation to W/17/2371 would ensure that these units were secured as affordable housing units so that the relevant number was achieved across the site.

The report was brought forward as an urgent item and could not wait until the next meeting of the Planning Committee because it was time critical in respect of finalising the Affordable Housing handover. It was possible that any delay could impact upon that.

The officer was of the opinion that the agreement of a standard clause was not affected by the CIL regulations and was purely the mechanism to secure appropriate delivery of affordable housing by a registered social landlord.

The update to the affordable housing numbers in the existing Section 106 Agreement would ensure that the appropriate 40% affordable housing was secured across the site.

Following the consideration of the report and presentation, it was proposed by Councillor Dickson and seconded by Councillor Jacques that the application should be granted.

The Committee therefore

Resolved that the Committee approved the revisions of the MIP Clause and affordable housing numbers through a Deed of Variation to the Section 106 Agreement.

143. **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.

(The meeting ended at 7.05pm)

CHAIRMAN
20 May 2021

Planning Committee: 20 May 2021 **Item Number: 5**

Application No: W 21 / 0256

Registration Date: 10/02/21
Town/Parish Council: Leamington Spa **Expiry Date:** 12/05/21
Case Officer: Dan Charles
01926 456527 dan.charles@warwickdc.gov.uk

The Old Golf Shop and Golf Course, Newbold Comyn Park, Newbold Terrace East, Leamington Spa

Redevelopment of existing disused golf course to create cycle tracks designed for all ages and capabilities together with alterations to existing old golf shop and clubhouse to create cycling hub together with external landscaping works. FOR Warwick District Council

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This application is being presented to Committee due to the number of objections received and because Warwick District Council is the applicant.

RECOMMENDATION

That planning permission be GRANTED with conditions.

DETAILS OF THE DEVELOPMENT

The proposal relates to the change of use and refurbishment of a former golf shop building into a cycling hub consisting of a reception area with store, a small café together with toilets and baby change facilities together with the provision of a landscaped area to the front to provide seating for the café together with picnic tables for general use and secure cycle stands.

The proposal also includes the provision of a network of trails within the wider common area utilising land associated with the former golf course.

The trails are to be created throughout the area and will be a mix of 2 metre and 1-metre-wide tracks depending on the grading of difficulty of the track.

The main green/easy trail is to be 2 metres wide and constructed by excavating the ground to a depth of 150mm and made up of varying grades of compacted stone laid onto a geotextile membrane to a depth of approximately 250mm to allow for the track surface to be raised above the ground level and sloped for natural drainage.

The remaining trails are to be 1-metre-wide and constructed by excavating the ground to a depth of 100mm and made up of varying grades of compacted stone laid onto a geotextile membrane to a depth of approximately 200mm to allow for the track surface to be raised above the ground level and sloped for natural drainage. Where the trail runs across sloping ground, the trail will be cut into the bank to create a level surface.

Along with the main trails, a range of other features are proposed such as raised berm corners of built up stone to a height of approximately 500mm and raised earth platforms forming "collection areas" and viewing platforms that form the links between the trails.

In addition to the main trails, a smaller area to the front of the hub building is to be used as a learn to ride area together with a small range of trails to be used for improving cycle skills.

An area of land is also set aside for dirt jumps of varying sizes and a grassed area to be used for seasonal/occasional use.

Signage is proposed throughout the trails to identify trails grades, direction, restrictions as well as slow/merge signs as required.

The existing perimeter path around the land is to be retained.

As will be explained below, the wider use of the land does not itself require planning permission and is therefore not a material consideration in the assessment of this proposal.

THE SITE AND ITS LOCATION

The Old Golf Shop and Clubhouse is located in a converted agricultural barn that forms part of the original range of buildings associated with the former farmhouse now known as the Newbold Comyn Arms Public House. The building was constructed around 1800 and forms part of the Grade II Listed range of buildings. The building is a single storey range under a pitched roof that fronts onto the common area. The land upon which the building sits slopes from north to south.

The land to be used for bike trails forms part of the disused golf course which itself form part of the wider Newbold Comyn nature park that covers an area of 300 acres. The park fulfils multiple roles that include recreation, sport and wildlife conservation.

The land contains a perimeter path that runs around the golf course area made up of a dirt/gravel surface of varying widths.

The area of the golf course is set to undulating grassland interspersed with sand bunkers with various copses of trees interspersed throughout the site.

The site is served by a number of pedestrian access points around the perimeter. Car parking is located to the south of the site which provides parking for users of the Common, Public House and the adjacent Newbold Comyn Leisure Centre.

PLANNING HISTORY

There is a wide range of history relating to the overall area. The key elements that are relevant to this application are listed below;

W/00/1536: Construction of a cycle track – **GRANTED 21 December 2000.**

W/83/0589: Construction of a BMX Cycle track – **GRANTED 18 August 1983.**

W/83/0027: Erection of single storey extension to clubroom to form office and golf centre – **GRANTED 21 April 1983**

W/80/0828: Change of use and alterations to elevations to form changing rooms, clubroom and store – **GRANTED 22 September 1980**

W/76/0753: Change of use from cowshed to club house - **GRANTED 20 Aug 1976.**

RELEVANT POLICIES

- National Planning Policy Framework

Warwick District Local Plan 2011-2029

- DS1 - Supporting Prosperity
- DS5 - Presumption in Favour of Sustainable Development
- DS18 - Green Belt
- PC0 - Prosperous Communities
- SC0 - Sustainable Communities
- BE1 - Layout and Design
- BE3 - Amenity
- BE4 - Converting Rural Buildings
- TR1 - Access and Choice
- TR2 - Traffic generation
- TR3 - Parking
- HS1 - Healthy, Safe and Inclusive Communities
- HS2 - Protecting Open Space, Sport and Recreation Facilities
- HS4 - Improvements to Open Space, Sport and Recreation Facilities
- HS5 - Directing Open Space, Sport and Recreation Facilities
- HS6 - Creating Healthy Communities
- HS7 - Crime Prevention
- CC1 - Planning for Climate Change Adaptation
- CC3 - Buildings Standards Requirements
- FW1 - Development in Areas at Risk of Flooding
- FW2 - Sustainable Urban Drainage
- HE1 - Protection of Statutory Heritage Assets
- HE4 - Archaeology
- NE1 - Green Infrastructure
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- NE3 - Biodiversity
- NE4 - Landscape

- NE5 - Protection of Natural Resources
- Open Space (Supplementary Planning Document - April 2019)

Royal Leamington Spa Neighbourhood Plan 2019-2029

Officer Note - While this is not yet formally made (as it has not yet been through a referendum) the above document has been through its final examination and as such is afforded substantial weight in the decision making process.

- RLS8 - Protecting Local Green Space
- RLS9 - Protecting Open Spaces
- RLS11 - Leisure, Sport and Recreation Facilities
- RLS13 - Traffic and Transport
- RLS14 - Cycling

SUMMARY OF REPRESENTATIONS

Royal Leamington Spa Town Council: No objection subject to further information being provided to the Town Council in relation to the following queries:

- How are cyclists and pedestrians to be kept separate and safe in the trails area? Lack of clear diagrams showing any combined routes.
- Disabled cyclist's accessibility - are the proposed squeeze gates Disability Discrimination Act compliant?
- The unisex toilets are only accessible from the exterior of the building and show a solid entry door.
- Most unisex toilets either have a clear glass entry door or no door at all, meaning the toilets are not secluded areas but rather more visible communal spaces. Could this be added to the design? Access from the cafe would be preferable if possible.
- The Town Council also supports the timely provision of requested information to WCC Ecology and WCC Landscaping.
- The Town Council is supportive of appropriate improvements to this local amenity for different types of outdoor exercise and wellbeing but underlines the needs for these queries to be addressed before permission is granted.

Councillor Will Roberts: I'm objecting to this application because whilst in principle I support the addition of family friendly bike tracks for local people to enjoy, I feel this application has misunderstood the relationship between local people and Newbold Comyn. This application has also created unnecessary division and I am saddened when people get simplistically labelled as 'pro' or 'anti' bike.

The area of the old golf course has come into its own during the last 12 months, giving people a green space to escape to, benefitting their health and mental wellbeing. So many residents have told me how Newbold Comyn became a refuge for them in 2020/1. Local people have been able to enjoy it, whether walking their dogs, exercising, riding a bike or even riding a horse. It is currently a truly shared space for all, a balance that would dramatically change if two-thirds of the area would be given over to bike tracks criss-crossing it.

I therefore have 3 points of objection:

1) The application is unclear how this shared space would work, specifically in regards to safety. How would walkers safely cross the more advanced tracks to access the areas in between them, whilst cyclists' (at varying speeds) use the track? One potential hazard / accident that would seem likely is where dogs are off the lead near the advanced mountain bike trails in particular. I am therefore concerned that the current plans will not allow these parts of the Comyn to continue to function as a shared space.

2) Nature & wildlife: I'm also concerned that this application deviates from the original master plan which offers more open space and more space given over to ecological enhancement. Many residents I have spoken to would like to see more of this space put back in.

3) The application states that the scheme wouldn't attract people from outside the area, but if this is the case why is the parking area being increased? The facilities at Newbold Comyn should be aimed primarily at people who can travel to the park using active travel methods. The application needs to lay out how money will be spent on making the site more accessible to local people using these methods. Increasing parking is inconsistent with the Council's climate emergency plans or reducing air pollution.

As I made clear at the beginning of this objection, in principle I do welcome bike trails that benefit local people, minimise collision risks and are family friendly. I also welcome an area where young or inexperienced people can learn to ride safely. Any new bike trails should be separate from pedestrian routes and not limit people's access to Newbold Comyn. I think it is possible to do this and the current Campion Hills BMX track shows how this could work.

I'm committed to continuing a constructive approach with all users.

However, the current application fails to achieve this approach and so I object to it and would ask that the application be withdrawn to address these concerns.

WDC Policy: This location is within the Green Belt. It is intended for an outdoor recreational facility and is therefore not considered prejudicial to the purposes of including land within the green belt. It is also not considered by the NPPF to be 'inappropriate' development. In general, the intended use is commensurate with planning policy and also in kilter with many of the Local Plan's specific policies to engender healthy lifestyles., (see policies HS1, HS2 and HS6 in particular.)

This will be a valuable asset to the District and should be recommended for approval.

WDC Conservation: No objection subject to conditions.

WDC CCTV: No objection.

WDC Open Space: No objection subject to recommendations on the detail of the proposal.

WDC Tree Officer: The Arboricultural Impact Assessment from The Tree and Woodland Company, reference TWC-1312-R-001, was thorough and provided a comprehensive tree survey and a tree constraints plan. Post-determination I should like to see an arboricultural method statement.

WCC Ecology: No objection subject to conditions requiring further survey work and regulatory reports together with advisory notes.

WCC Highways: Having undertaken a full assessment of the above planning application, it is considered that the proposal will not have an adverse impact on the surrounding Highway Network, therefore, the response of Warwickshire County Council as the Local Highway Authority is one of No Objection.

WCC Public Rights of Way: There are a number of recorded public rights of way in the vicinity of the application site but these do not appear to be directly affected by the proposals. The Rights of Way team therefore has no objection regarding this application.

WCC Landscape: Unable to comment on the landscape proposals without full details of species, sizes, numbers / density etc. This includes the replacement tree planting and proposed wildflower seed mixes, as well as the landscaping around the barn. The route of the trail is shown as passing through several category A and B trees. I would like confirmation that this is just indicative and that the actual route will be amended to avoid these trees and their root protection areas.

Warks Police Designing Out Crime Officer: Warwickshire Police have no objections to this planning request however I would ask that measures be incorporated into the design to ensure that the business's, staff and customers do not become victims of crime or anti-social behaviour.

Historic England: Do not wish to offer comments. Suggest you seek the views of your specialist Conservation and Archaeological advisors.

Natural England: No comments to make on this application.

Ramblers Association: Although the site is ringed by a network of Public Rights of Way (W132, W132a, W127b, L9a, L8a & L8), none of these PROWs are within the Red Line Boundary of the site. Ramblers Warwickshire Area therefore have no objection to this application on footpath grounds.

Warwickshire Wildlife Trust: Warwickshire Wildlife Trust is objecting to this application for the redevelopment of a disused golf course to create cycle tracks and associated work, as we have serious concerns regarding the lack of detailed species surveys namely bats, Great Crested Newts and Reptiles, which shouldn't just be an afterthought as a condition.

We also have serious concerns regarding demolition of parts of a derelict building which may affect bat species, as well as the fact that the proposed cycle tracks reduce the potential for biodiversity enhancement across the site and as part of the wider masterplan, specifically trees planting and pond reintroduction.

If the application were approved prior to survey work and contrary to our recommendation, there would need to be at the very least clear conditions regarding artificial lighting impacting on all protected species, work during construction, badger fencing for transient badgers and appropriate signage and parking to limit the impact on wildlife on this designated 'Local Wildlife Site'.

Public Response: At the time of writing, there have been 519 Objection Letters (of which 80.3% are from Leamington Residents and 14.6% from Warwick District Residents), 847 Support Letters (of which 32.7% are from Leamington Residents and 24.3% are from Warwick District Residents) and 23 General Comments (of which 82.6% are from Leamington Residents and 8.7%) are from Warwick District Residents) received.

Objection Comments

- Area should be left alone for recreational walking and dog walkers.
- Has been a much enjoyed space since the golf course closed.
- Walkers seem to be an afterthought even though they make up the majority of countryside users
- Cycling provision is excessive
- Will have a major impact on ecology and harm wildlife
- Comyn is a resource for whole community, not just the young and fit.
- No data to support the proposed usage.
- Additional noise impact to those who want a country walk
- Will result in parking and traffic problems
- Potential for pedestrian/cycle conflict
- Financial costs of running café - who will pay.
- Where is money coming from to develop the barn
- Will destroy a large area of the Comyn that would be better suited to tree planting and wildlife.
- Will reduce the amenity of the overall area.
- Potential for anti-social behaviour.
- Potential for conflict between cyclists and dogs.
- Bikes damage footpaths making them impassable.
- Would harm the beauty, peace and tranquillity of the Comyn.
- Proposed amount of cycle tracks is excessive
- Cycle tracks should be separate from pedestrian paths.
- Comyn is already overcrowded, particularly at weekends, this will make things worse.
- Should be a wider mix of facilities
- Designed for a minority at the expense of the majority.
- Pedestrians and dog walkers should not have access restricted.
- Will attract cyclists from outside of Leamington.
- Surfaces of bike tracks will irreversibly demean the natural aesthetic of the Comyn

- Loss of trees goes against the Councils own tree strategy.
- Protective fencing would be a further desecration of the green aesthetic
- Contrary to Newbold Comyn Masterplan
- Harm to amenity caused by fenced off areas.
- Newbold is the best local safe open area for off lead exercise and play for dogs
- Dog walkers make up a high percentage of year round users
- What happened to WDC concern for protecting nesting birds and wildlife
- There is NO need for this area to be recommissioned only for bikes, there are many areas for cyclists
- The proposed huge area would require security to ensure it is not used out of hours
- The people of Leamington like Newbold Comyn just as it is, please leave it alone
- The existing golf course is NOT disused
- How does this plan sit with the long-term objective of creating a nature reserve?
- I don't think any one group (cyclists, dog walkers etc) should take over the area. There should be zones for all.
- Perhaps some of the fields could be left without cycle paths crossing them.
- The plans include tree thinning and this too is very alarming as the character and the beauty of the land will be lost
- Safety concerns - potential fast moving cycles colliding with walkers/children
- Safety concerns - conflict with adjacent bridleway and conflict with horses & cyclists
- Scale of proposals too large and will exclude groups
- Destroy beauty of the area
- Loss of green space
- Money-making enterprise that does not take into account the impact on local people
- Comyn is better suited for runners and walkers
- Disruption to wildlife
- Noise from cyclists
- Green spaces essential for mental health
- Investment should be made in cycle lanes instead of green spaces
- None of current activities e.g. dog walkers, runners, picnics could happen with cycle tracks running through
- Existing bridle path should be made clearer
- Site notice not displayed clearly
- More investment in existing BMX track at Campion Hill
- Funding could be better spent - planting trees, improving and increasing green spaces
- New proposal will preclude access and enjoyment of this space to many local residents
- Other places more suited to development that would less hinder community
- Predominantly Male pursuit, this development will only attract more men
- Parking charges will disadvantage elderly users of park and increase parking in surrounding areas

- Harmful to local dog walking businesses who use the park, dogs should not be required to be on a lead
- Would increase car journeys to the area
- Access to Comyn from Newbold Terrace East is not sufficient and needs to be looked at.
- Incompatible with the proposals for this to be a nature reserve
- Comments from WDC residents should be given more weight than supporters from outside of the District
- Increased traffic
- Pressure on local emergency services - accidents are heavily associated with MTB parks
- Pressure on parking
- This is a destination amenity for people outside of the District, pushing out existing local users
- This is different from the initial consultation, which was misleading
- Incompatible with the existing use for horse riding
- This is about making money over other considerations
- There is already a cycle track at Campion Hill that is underused
- No detail of how much of the old golf course is being given over to bikes
- The scheme will increase littering
- Hopes opinions of people outside of the area are not considered over local people
- Wording of proposals gives a false impression of the area e.g. unused, unloved
- Safety of all users should be considered in any plans without compromising enjoyment
- Proposed area has the best drainage; the low lying land left for walkers is likely to be impassable in winter months
- Tracks will be accessed/egressed at 2 points off existing pedestrian pathway (the only path pedestrians can use + potentially unsafe)
- Contrary to Member Steering Group meeting (Jul '20) which concluded Newbold Comyn shouldn't be developed as a destination venue

<u>Support Comments</u>

- Excellent Facility
- Will allow children to learn the skills to ride safely and confidently before moving onto roads
- Café will be well used and provide a great facility for customers across Leamington
- Will attract wider range of users who can use the park safety.
- Good to see a viable use proposed for the building.
- Plans to encourage cycling and exercise in general must be supported
- Great addition to the local area.
- Will allow people to stay local rather than having to travel to other facilities and invest in the local community.
- Perfect use of the area.
- Important to provide these facilities for health and mental wellbeing.
- Critical to encourage more participation in cycling for sustainability as well as health benefits.

- Will provide a safe environment for cycling away from roads.
- Provides a safe family area for days out.
- Lack of provision for off-road cycling in Warwickshire
- Will support local bike shops and give potential for increase in local employment
- Will increase use of this amazing local resource.
- Will conserve the natural aspect of the countryside.
- Will complement Leamington's pro-road cycling reputation with the Tour of Britain.
- Providing a dedicated facility minimises potential for unauthorised cycling etc.
- Potential to result in reduced car usage at peak hours
- Does not limit potential for all users to enjoy the space
- Will make existing riding places less busy
- Development meets local and national planning priorities
- Increases access to facility.
- No impact on neighbouring amenity.
- Squeeze barriers could restrict access.
- Plans help cyclists and walkers interact more safely.
- Benefits to local economy
- Loss of golf no issue, having limited appeal, inaccessible and hazardous
- There will still be sufficient space for walkers to enjoy
- Wildlife and landscape features are protected and enhanced
- Current space is underutilised
- Will reduce car emissions as people do not need to travel so far to access similar facilities
- It will go a small way to make up for some of the disruption caused by HS2 of popular local mountain bike routes.

General Comments

- Dog walkers must be accommodated in the plans
- Proposal must be consistent with Policy TR3 and provide appropriate parking.
- There were no issues when land was a golf course.
- Should be additional facilities provided such as a "Go Ape" or adventure park.
- Many comments received from outside of the area.
- If operated correctly, all users of the Comyn can be accommodated.
- Should be more tree planting to compensate for the harm.
- Relationship between climate change and cycling should be acknowledged.
- Area should be 'rewilded'

ASSESSMENT

Scope of Assessment

As Members will note, this application has attracted significant public interest and a wide number of matters have been raised in response.

In planning terms, both the existing and proposed use of the land fall within the definition of outdoor sport and recreation and therefore there is no material change of use of the land involved in this proposal and planning permission is NOT required for that aspect.

The elements of the proposal requiring planning permission and therefore to be assessed as material considerations in this case are;

- The change of use of the building and the external alterations to facilitate that use.
- The engineering operations and landscaping associated with the creation of the hub area.
- The engineering operations associated with the provision of the trails and ancillary works.

The key issues in the consideration of this application are therefore:-

1. Whether the proposal constitutes appropriate development in the Green Belt.
2. Design and impact on visual amenity and the character of surrounding area
3. Impact on the character and setting of the Listed Building
4. Impact on adjacent properties
5. Highway Safety
6. Impact on Ecological Matters

Whether the proposal constitutes appropriate development in the Green Belt

As the site lies within the West Midlands Green Belt, the proposal must be assessed against Policy DS18 of the Local Plan. The policy states that development must be in accordance with the National Planning Policy Framework (NPPF) Green Belt provisions.

Paragraph 145(b) states inter alia that the provision of appropriate facilities (in connection with the existing use of land) for outdoor sport, outdoor recreation is acceptable within the Green Belt as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

In addition, Paragraph 146 states that certain other forms of development are not inappropriate development within the Green Belt.

The installation of the trails would be an engineering operation that is identified as acceptable under Paragraph 146(b). The trails are considered to preserve the openness of the Green Belt.

Paragraph 146(d) allows for the re-use of buildings provided that the buildings are of permanent and substantial construction. The proposed development would solely reuse the building without extension or alteration. This element is therefore not considered to impact on the openness of the Green Belt.

Officers are therefore satisfied that the development is appropriate development within the Green Belt.

Design and impact on visual amenity and the character of surrounding area

Section 12 of 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.

Policy BE1 of the Local Plan 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.

The refurbishment and re-use of the barn building to create the hub will improve the character and appearance of the curtilage Listed Building and will provide it with a purpose that will ensure its protection in the long term. The alterations to the appearance of the building are limited with no new openings proposed.

Externally, a forecourt area will be provided for seating for the café, bicycle parking etc. These works are minor in scale and would improve the current frontage of the building offering it more of a positive presence in the local landscape.

The bike trails will be installed across the area of land previously used as a golf course. The land has more recently been used for general recreational purposes. The introduction of the bike trails will provide a formalised area for cyclists across the upper common area. The trails themselves would be created with a crushed stone surface which would result in a minor visual change to the open, green aspect of the current area. However, the relatively minor nature of the tracks being predominantly 1 metre in width with the main family trail being 2 metres in width, would still retain the overall character of the common.

Some modest features are proposed throughout the park such as raised platform areas that mark the end of trails and provide a link to other trails. These are earth mounds that will have a minor impact on the existing character of the Common which is already a fairly undulating area of land and the level of impact would not be sufficient to result in significant demonstrable harm to justify the refusal of planning permission.

The trails will also be signposted accordingly for safety purposes but Officers are satisfied that the proposed signs would be small scale and would not be harmful to the character and amenity of the local area.

The majority of works would retain the natural openness of the area and would not result in any significant harmful impact on the character of the common land. On this basis, Officers are satisfied that the proposal accords with Policy BE1 of the Local Plan.

Impact on the character and setting of the Listed Building

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 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.

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 HE1 (protection of statutory heritage assets) states that permission will not be granted to alter or extend a listed building where those works will adversely affect its special architectural or historic interest, integrity, or setting.

The existing building has been disused since the closure of the golf club. Security shutters have been added to the external openings to prevent unauthorised ingress to protect the interior of the building. The lack of use and associated securing of the premises has led to a diminishment to the overall character and appearance of the building.

The building subject to this proposal is an important reminder of the site's agricultural heritage and is curtilage listed. The application seeks to remove modern, poor quality additions considered detrimental to the special interest of the curtilage listed building (most notably the external C20 link corridor). The proposal will also make the structure appear more reminiscent of its original form which, in turn, undoubtedly enhances the setting of the principal Grade II listed former farmhouse.

No additional openings or roof lights are proposed and it is considered that the development retains its original agricultural character.

Internally, there are changes associated with the introduction of new suspended floor creating level access throughout, however this is not considered detrimental to the historic proportions of the building, and the proposal generally reinstates the original layout. Externally, a 2-metre-tall timber featheredge fence is proposed in order to contain the air source heat pump. In order to minimise the visual impact, it is proposed to be conditioned to be dark painted or stained.

The detailing of the building can be secured by conditions.

Overall, the proposed alterations will bring the building back into a practical use whilst restoring it to its former condition and retaining the existing character of the building which is to be welcomed.

The proposal is therefore considered to have a positive impact on the character of the curtilage Listed Building and is therefore acceptable having regard to Policy HE1 of the Local Plan.

Impact on adjacent properties

Policy BE3 of the Warwick District Local Plan states that new development will not be permitted that has an unacceptable adverse impact on the amenity of nearby uses and residents.

There are no immediate neighbours to the site that would be affected by the works to the building to facilitate the use. In addition, the creation of the bike trails would not result in any harm to neighbouring amenity.

The proposal is therefore considered to be acceptable having regard to Policy BE3.

Highway Safety

Policy TR1 of the Warwick District Local Plan requires all developments 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 proposal has no direct impact on the local highway network and this has been confirmed by the County Highways Officer who has raised no objection to the proposed development.

Car parking is provided within the existing car parking areas for people travelling to the site by car and Officers are satisfied that the level of existing provision is acceptable.

Concern has been raised regarding the potential for the site to become a destination attraction which could result in significant levels of vehicle movements being associated with the use. Officers note that the use of the land itself does not require planning permission; doesn't form part of the application and therefore is not a material consideration. That being the case, the level of parking associated with that use is not itself a material consideration.

Overall, the scheme is considered to have no detrimental impact on highway safety, traffic or parking having regard to Policies TR1 and TR3.

Impact on Ecological Matters

Policy NE3 of the Warwick District Local Plan states that development proposals will be expected to protect, enhance and/or restore habitat biodiversity and where

this is not possible, mitigation or compensatory measures should be identified accordingly.

The proposed development has been assessed by the Ecologist at Warwickshire County Council who has assessed the site against their own records as well as the information submitted as part of the application.

Protected Species

The application site falls within Newbold Common, Campion Hills & Radford Road Allotments Ecosite, with a small section of the site falling within a potential Local Wildlife Site (pLWS). The cycle paths have been designed to avoid impacting the pLWS. The River Leam and associate habitats, Leam Valley Local Wildlife Site (LWS) and Local Nature Reserve (LNR), is adjacent to the south-east of the site.

The Ecologist agrees with the comments and recommendations stated within the ecological report concerning potential impact on surrounding additional designated sites of nature conservation in the wider area, such as Welches Meadow LNR and LWS, Newbold Comyn LWS, Whitnash Brook LWS/LNR, the Rugby to Leamington Railway (disused) LWS, the Grand Union Canal pLWS and Leamington Reservoir LWS. It is noted that mitigation measures will be required to ensure there is no adverse impact to any of these sites.

According to the Ecological Impact Assessment (EcIA) the habitat recorded on the site mainly consists of a disused golf course with amenity grassland and woodland blocks. Scattered broadleaved trees are also present on site and more notably, two veteran Oak trees are present along the western boundary and within the golf course. Additional habitat includes semi-improved grassland types, scrub, ephemeral/short perennial vegetation, tall ruderal, along with waterbodies and running water. Several buildings and areas of hardstanding are present within the south-western part of the site.

In terms of the works to the building, an initial assessment has been carried out of the building present which is proposed to be renovated. The building has been categorised as having a moderate potential for roosting bats and recommendations are in-line with the BCT Guidelines (2016).

The building is to be retained however the proposed renovation works may involve repairs to areas that currently provide opportunities for roosting bats. From the information provided it appears the potential largely provides opportunities for crevice dwelling species of bats. In light of this, the Ecologist has recommended further survey work to be completed at a suitable time of year and submitted for evaluation. This survey work can be secured by condition. In addition, appropriate measures for bats should also be addressed in the Construction Environmental Management Plan (CEMP). Taking into consideration the proposed works to the building, along with the potential that is currently present, this information can be provided within a Protected Species Contingency Plan (PSCP) as a condition and also feed into relevant sections of a CEMP as a condition.

Warwick Wildlife Trust have raised a number of concerns regarding protected species. Having reviewed their comments in conjunction with those received from the Warwickshire County Council Ecologists, Officers are satisfied that these concerns have been considered and addressed satisfactorily subject to the conditions set out in this report.

A range of conditions and notes have also been recommended to ensure that protected species are not harmed by the development.

Biodiversity Impact

Planning policy changes promoted within the National Planning Policy Framework (NPPF) include the guiding principle that all developments should result in a biodiversity gain. The way to measure biodiversity impact is via the Biodiversity Impact Assessment (BIA) Offsetting metrics. If a biodiversity loss is predicted on site, then this should be compensated appropriately. The quality of the proposed habitat enhancements / creations influences the biodiversity impact.

Whilst a Biodiversity Impact Assessment has not been carried out for the proposal, this development forms part of the wider Newbold Comyn masterplan and within this document, there are proposals to focus enhancements on high value habitats, such as wildflower grasslands, the wetlands and woodlands that form part of the LWS/LNR, which the Ecologist anticipates would mitigate for any such loss generated from the cycle scheme.

In this particular instance, given the level of information provided at this stage, the Ecologist considers that the BIA could be secured in the form of a condition to address this matter.

Trees/Hedgerows

The Warwickshire County Council Landscape Officer has raised concerns regarding the proximity of some of the trails to Category A and B trees and the potential impact on these trees.

The application was submitted with an Arboricultural Impact Assessment carried out by a suitable qualified company. This has been assessed by the District Councils Tree Officer who is satisfied that the submitted document was thorough and provided a comprehensive tree survey and a tree constraints plan. No objection has been raised to the document subject to the imposition of a condition to secure the submission of an arboricultural method statement.

The arboricultural method statement will set out in detail how trails in the proximity of trees will be created to ensure that there is no harm to the health or longevity of all trees that are in the proximity of any trees. Upon submission of this document, this will be assessed by the Councils Tree Officer to ensure that the appropriate methodology is proposed.

Subject to the required conditions, Officers consider that the proposal is acceptable having regard to Policy NE3.

Other Matters

Archaeology

The applicants engaged with the County Archaeologist at pre-application stage and it was considered that survey work would be required. This can be secured through the imposition of a standard condition.

Waste Storage

Appropriate waste storage areas are provided for the building and additional waste bins are proposed in the area.

Energy Conservation

The barn is to utilise sustainable energy through the provision of Air Source Heat Pumps to provide heating and hot water for the building. These will be located sympathetically and screened with feather-edge timber fencing. The Air Source Heat Pumps can be secured through condition to ensure they are installed as part of the development.

Town Council Comments

As part of their consultation response, Royal Leamington Spa Town Council raised some queries regarding technical aspects of the development. Whilst these aspects are not material planning considerations, the applicants have provided feedback and Officers can advise as follows;

How are cyclists and pedestrians to be kept separate and safe in the trails area? Lack of clear diagrams showing any combined routes.

All facilities will be placed with all user's groups in the area in mind. For example, trails may run alongside footpaths but will always be slowed by the use of gravity and squeeze points prior to any crossing. Way markers will be placed on both the trail and footpath at these such points to inform all parties.

Multiusers trails will be sign posted for cycling in a specific direction to mitigate issues.

If it was found the main trail line would be best to use a section of the multiusers trail this will be solely on climbing sections wherever possible to reduce possible speed of riders to a minimum.

A 3m border will be maintained as a minimum between the track and the existing paths/boundaries on the site as required by ROSPA (Royal Society for the Prevention of Accidents).

Disabled cyclist's accessibility - are the proposed squeeze gates Disability Discrimination Act compliant?

Skills area

All the green sections of the skills area will be accessible for all including disabled users. Disabled users will be able to enjoy the integration of the facility for all. The main access path to reach the start area will be DDA compliant allowing all users the chance to ride the descending section before looping back round for another go. Following on from the skills area, progression riders can move onto the main trail area.

Main Trail Area

Disability users and 4 wheeled off-road bikes. Disabled users will be able to enjoy the integration of the facility for all. The main access path to reach the start area will be DDA compliant.

The entrance/exit points to the areas will be positioned to be as slow as possible for riders. This will help to restrict speed of riders entering or exiting the area therefore reducing conflict with both users of the existing facilities adjacent to the area and existing riders on the track. Squeeze boulders/gates whichever is more appropriate will be used to reduce speed when approaching intersections and be inserted to cause the riders to further reduce speed if required when entering sections, along with signage and way markers to inform riders about the grade and skill level of the trail.

The unisex toilets are only accessible from the exterior of the building and show a solid entry door. Most unisex toilets either have a clear glass entry door or no door at all, meaning the toilets are not secluded areas but rather more visible communal spaces. Could this be added to the design?

This aspect of the design can certainly be reviewed, with the potential to add a half glazed entrance door to the unisex toilet area – this design would mirror the proposed half glazing of other doors on the front elevation.

Access from the cafe would be preferable if possible.

The potential to provide access from the café area to the toilets was reviewed, however the different floor levels between the spaces make this approach unfeasible – the general gradient that the barn is located on is one of the main reasons we have worked hard to design external landscaping to provide much improved level access into the building compared to the existing approach.

Warwickshire Police Designing Out Crime Officer Comments

The Officer has no objections to the proposal but has put forwards a range of suggestions in order for the proposal to be resilient to crime and anti-social behaviour such as;

- Provision of roller shutters/grilles protecting pedestrian access doors.
- Provision of roller shutters/grilles protecting windows.

- All external and emergency egress door sets not protected by a roller shutter or grille to be high security.
- Ground floor windows and those easily accessible above ground floor, shall be enhanced security performance.
- Lighting on adopted highways, footpaths, private roads and footpaths and car parks must comply with BS 5489-1:2013.

Officers consider that these elements can be incorporated into the design as new openings etc are subject to conditions requiring details to be submitted. An explanatory note is proposed to be added to the decision notice setting out the above requirements.

Conclusion

The proposal is for the provision of a range of trails which are proposed for all skill levels on part of the former golf course on Newbold Comyn together with the re-use of the old Golf Shop to create a cycling hub facility containing a reception, café and toilets.
The proposal is considered to be appropriate development within the Green Belt and would not have a harmful impact on the character and amenity of the area or highway safety. Matters relating to protected species and detailing can be secured by condition.

Subject to the recommended conditions, the proposal is considered acceptable and Officers therefore recommend 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) 5192555-ATK-XX-00-DR-BS-009, 5192555-ATK-XX-00-DR-BS-010 – 016, 5192555-ATK-XX-00-DR-BS-010 REV P01, 5192555-ATK-XX-00-DR-BS-011 REV P01, 5192555-ATK-XX-00-DR-BS-012 REV P01, 5192555-ATK-XX-00-DR-BS-013 REV P01, 5192555-ATK-XX-00-DR-BS-014 REV P01, 5192555-ATK-XX-00-DR-BS-015 REC P01, 5192555-ATK-XX-00-DR-BS-016 P01, 5192555-ATK-XX-00-DR-BS-017, 5192555-ATK-XX-XX-DR-LA-401001. TWC-1312-D-001. TWC-1312-D-002, and specification contained therein, submitted on 10 February 2021 and 20-012 (07)001 D5, and specification contained therein, submitted on 10 February 2021.

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 The development hereby permitted shall not commence until a Landscape & Ecological Management Plan (LEMP) in accordance with the British Standard on Biodiversity BS 42020:2013 (see attached note) has been submitted to and approved in writing by the Local 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 native species planting, wildflower grassland creation, tree/hedgerow planting, provision of habitat for protected/notable species. Such approved measures shall thereafter be implemented in full.

Reason: To ensure a net biodiversity gain in accordance with NPPF.

4 The development hereby permitted shall not commence unless and until tree protection/mitigation measures have been submitted to and approved in writing by the LPA and the approved measures have been put into place. The approved measures must remain in place for the duration of demolition and construction works. The proposals must refer to all the trees within the site as well as those highway trees that will be affected by the proposed demolition and re-development, and must include:

a] an arboricultural method statement and tree protection plan in accordance with British Standard BS 5837:2012 Trees in relation to design, demolition and construction – Recommendations, Clause 7 in particular.

b] an arboricultural site monitoring protocol that will confirm to the local planning authority by independent examination that the agreed tree protection measures are in place for the duration of the development

Reason: In order to protect and preserve existing trees within the site which are of amenity value in accordance with Policies BE1 and NE1 of the Warwick District Local Plan 2011-2029.

5 No development shall take place until a detailed lighting scheme has been submitted and agreed between the applicant and the local planning authority. In discharging this condition, the District Planning Authority expects lighting to be restricted around the boundary edges, along hedgerows, around known bat roosts and badgers setts, 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) type of lamp used
b) the brightness of lights should be as low as legally possible
c) lighting should be timed to provide some dark periods

d) connections to areas important for foraging should contain unlit stretches

The agreed scheme to be fully implemented before/during development of the site as appropriate.

Reason: To ensure appropriate measures are taken in relation to protected species.

6 The development hereby permitted shall not commence until a Construction and Environmental Management Plan (CEMP) in accordance with the British Standard on Biodiversity BS 42020:2013 (see attached note) has been submitted to and approved in writing by the District Planning Authority. In discharging this condition the LPA expect to see details concerning pre-commencement checks for protected and notable species with subsequent mitigation and monitoring, as deemed appropriate. In addition, appropriate working practices and safeguards for habitats, such as the Veteran Trees, LWS's/LNR's, woodlands, ponds, hedgerows and trees, to be employed whilst works are taking place on site. The access and compound area should be allocated and illustrated in a site layout within the plan. The agreed CEMP shall thereafter be implemented in full.

Reason: To ensure that protected species and habitats to be retained are not harmed by the development in accordance with National Planning Policy Framework (NPPF), ODPM Circular 06/2005.

7 The development hereby permitted shall not commence 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

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.

8 No development on each phase shall take place until:

a) a Written Scheme of Investigation (WSI) for a programme of archaeological evaluative work has been submitted to and approved in writing by the Local Planning Authority for that phase.
b) the programme of archaeological evaluative fieldwork and associated post-excavation analysis and report production detailed within the approved WSI has been undertaken for that phase. A report detailing the results of this fieldwork, and confirmation of the arrangements for the

deposition of the archaeological archive, has been submitted to the planning authority.
c) An Archaeological Mitigation Strategy document (including a Written Scheme of Investigation for any archaeological fieldwork proposed) has been submitted to and approved in writing by the Local Planning Authority for that phase. This should detail a strategy to mitigate the archaeological impact of the proposed development and should be informed by the results of the archaeological evaluation.

The development, and any archaeological fieldwork post-excavation analysis, publication of results and archive deposition detailed in the Mitigation Strategy document, shall be undertaken in accordance with the approved Mitigation Strategy document.

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 No development shall be carried out above slab level unless and until large scale details of doors, windows (including a section showing the window reveal, heads and cill details), eaves, verges and rainwater goods at a scale of 1:5 (including details of materials) have been submitted to and approved by the Local Planning Authority. The development shall not be carried out otherwise than in strict accordance with such approved details.

Reason: To ensure a high standard of design and appearance for this Listed Building, and to satisfy Policy HE1 of the Warwick District Local Plan 2011-2029; to ensure that the rural character and appearance of the barn(s) is protected, in accordance with Policies BE1 and BE4 of the Warwick District Local Plan 2011-2029.

10 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 a high standard of design and appearance for this Listed Building, and to satisfy Policy HE1 of the Warwick District Local Plan 2011-2029.

11 New roofing material proposed for the development hereby permitted shall be handmade clay roof tiles.

Reason: To ensure a high standard of design and appearance for this Listed Building, and to satisfy Policy HE1 of the Warwick District Local Plan 2011-2029.

12 All rainwater goods for the development hereby permitted shall be comprised in cast metal.

Reason: To ensure a high standard of design and appearance for this Listed Building, and to satisfy Policy HE1 of the Warwick District Local Plan 2011-2029.

13 Mortar used for repointing should be lime-based mixed with sands and aggregates to match the colour and texture of existing historic mortar.

Reason: To ensure a high standard of design and appearance for this Listed Building, and to satisfy Policy HE1 of the Warwick District Local Plan 2011-2029.

14 No development shall commence until a Protected Species Contingency Plan has been submitted to and approved in writing by the planning authority. The plan shall include:

a) Further bat surveys of the building and trees in accordance with BCT Bat Surveys – Good Practice Guidelines, has been carried out.
b) Further Great Crested Newt Surveys to be carried out by a suitably qualified ecologist.
c) Reptile Surveys to be carried out by a suitably qualified ecologist.
d) A updated badger survey carried out by a suitably qualified badger consultant.

The results of the surveys to be submitted to and approved in writing by the District Planning Authority. If appropriate a detailed mitigation plans including a schedule of works and timings has been submitted to and approved in writing by the District Planning Authority. Any approved mitigation plan shall thereafter be implemented in full. Note: The outcomes of the surveys may have implications for the design and/or layout of the development)

Reason: *To ensure that protected species are not harmed by the development.*

15 Within 12 months of occupancy a scheme ("the scheme") shall ensure that there is no net biodiversity loss as a result of the development has been submitted to and agreed in writing by the Local Planning Authority. The net biodiversity impact of the development shall be measured in accordance with the DEFRA biodiversity offsetting metric as applied in the area in which the site is situated at the relevant time and the scheme shall include:

i. Proposals for on-site mitigation (full details of which will be provided in relation to each phase of development in accordance with Condition X of these conditions) and/or for off-site offsetting;

ii. A methodology for the identification of any receptor site(s) for offsetting measures;
iii. The identification of any such receptor site(s);
iv. The provision of arrangements to secure the delivery of any offsetting measures (including a timetable for their delivery); and
v. A management and monitoring plan (to include for the provision and maintenance of any offsetting measures in perpetuity).

The written approval of the Local Planning Authority shall not be issued before the arrangements necessary to secure the delivery of any offsetting measures have been executed. The scheme shall be implemented in full accordance with the requirements of the scheme or any variation so approved.

Reason: To ensure a net biodiversity gain in accordance with NPPF

Planning Committee: 20 May 2021 **Item Number: 6**

Application No: W 20 / 2035

Registration Date: 07/12/20
Town/Parish Council: Leamington Spa **Expiry Date:** 01/02/21
Case Officer: Emma Booker
01926 456521 Emma.Booker@warwickdc.gov.uk

9 Camberwell Terrace, Leamington Spa, CV31 1LP
Formation of front lightwell and erection of low brick wall (retrospective application) FOR Mr J Pangli

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This application is being presented to Planning Committee due to the number of objections received.

RECOMMENDATION

Planning Committee is recommended to grant planning permission, subject to the conditions listed at the end of this report.

DETAILS OF THE DEVELOPMENT

Retention of lightwell to the front of the property and erection of low brick wall.

The lightwell completed at the site is irregular in shape and surrounds the front and side of the bay feature. It is covered by a metal grate and white UPVC windows have been fitted in the window apertures. For safety, a metal gate has been fitted to separate the main access into the property and bin storage area from the lightwell.
The front wall was demolished without planning permission prior to the determination of the previous application ref: W/20/0980. It has now been reinstated with new materials to give a similar visual appearance to the original wall.

THE SITE AND ITS LOCATION

9 Camberwell Terrace is a two storey mid-terraced dwelling located within the Royal Leamington Spa Conservation Area. The streetscene is relatively uniform and comprises of terraces of Victorian dwellings similar in character. The front boundary treatments predominantly comprise low brick walls and slightly higher brick piers. Generally, bins are stored at the front of the dwellings. Parking for the properties is accommodated within the highway as there is insufficient space to the front of the dwellings for off-street parking.

The character of the application property as observed from the street comprises red Warwickshire facing brickwork laid in a Flemish bond, slate roof tiles and white upvc windows. The low red brick wall at the front boundary comprises red facing brickwork laid in a stretcher bond, sandstone pyramidal coping stones on the brick piers and grey capping stones along the lower section of the wall.

The property is a licensed HMO and the works are required to maintain occupation by 5 individuals.

The development has already been completed at the site. At the time of the site visit the basement was locked. The Case Officer was provided access into the basement by the applicant and was advised that the tenants would not be provided with a key.

PLANNING HISTORY

W/20/0980 **-** Construction of two lightwells to the front of the property – Refused and subsequently dismissed at appeal (ref: APP/T3725/D/20/3258629).

The appeal was dismissed on the basis that the Inspector considered that inadequate outlook would be afforded to the basement by the windows installed within the bay and lightwell due to the boundary wall and shallow depth of the lightwell. The windows did not provide sufficient natural light, occupiers would be reliant on artificial light when using the room. This impact would be exacerbated by grille covers over the lightwell. The effect of the poor light and outlook on those using the room is exacerbated by the existing low ceiling, and overall results in an oppressive room which would not be pleasant to use.

The Council's other two reasons for refusal, namely inadequate external refuse storage space and harm to the conservation area were not upheld by the Inspector. As such, the main issue in the consideration of the current application is limited to residential amenity.

The lawful use of the subject property is a C4 House in Multiple Occupation. This use predates 2011 when the Council's Article 4 Direction came into place to restrict changes of use from C3 to C4 without needing planning permission. This was verified by the Council's Enforcement Department in 2019 by using council tax records.

RELEVANT POLICIES

- National Planning Policy Framework
- Warwick District Local Plan 2011-2029
- H6 - Houses in Multiple Occupation and Student Accommodation
- BE1 - Layout and Design
- BE3 - Amenity
- TR3 - Parking (Warwick District Local Plan - 2011-2029)
- HE1 - Protection of Statutory Heritage Assets
- HE2 - Protection of Conservation Areas
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- Guidance Documents
- Parking Standards (Supplementary Planning Document)
- Residential Design Guide (Supplementary Planning Document- May 2018)

Royal Leamington Spa Neighbourhood Plan (2019-2029)

- Officer Note - While this is not yet formally made (as it has not yet been through a referendum) the above document has been through its final examination and as such is afforded substantial weight in the decision making process.

- RLS3 - Conservation Area

SUMMARY OF REPRESENTATIONS

Private Sector Housing - No objection to this application on the assumption that the use of the basement will be restricted to storage. A single lightwell currently exists rather than two lightwells.

Public Response - 8 objections received on the following grounds;

- the lightwell should be refused as the cellar is not fit for use as living space
- the basement is already being used for living space and is not provided with a satisfactory fire escape.
- in the interests of future tenants' and neighbours' amenity, all possible steps must be taken to restrict the use of the basement and occupancy of the house restricted to no more than 4 individuals. Neighbours request a suitable planning condition to be imposed.
- one neighbour considers that the application should be refused because a condition to restrict the use of the basement to storage would not be sufficient to protect the amenity of the occupiers, this opinion is based on the fact that it cannot be guaranteed that the space will not be used for living accommodation and relies on the cooperation of the tenants and the landlord. It is suggested that the use of the basement be fully prohibited by tenants and the basement should not be mentioned in any future marketing of the property.
- planning history reveals that the majority of the houses in the street would not support a lightwell of this nature due to the distance between them and the street, reference is made to application ref: W/08/0930. The neighbours request that consideration is given to this decision in the assessment of this application. If approved, the permission will give the 'green-light' for further lightwells in the street. The lightwells are considered to result in harm to the Conservation area.
- there is a history of non-compliance with the legislative requirements at this site, neighbours have listed a number of instances where the terms of the HMO licence have been breached and development has been carried out without planning permission. Neighbours consider that the landlord is highly unlikely to ensure compliance with the Planning Inspector's decision (restricting the use of the basement to storage) and therefore this application should be rejected.
- concerns raised in relation to noise and anti-social behaviour which could be generated from within the basement.
- it is considered that there has been no substantive change to the situation at the property between the previous application being refused and the

lodging of this new planning application, therefore there is no reason for a different decision to be made this time around.

- the floor plans have consistently been inaccurate for the lightwells, causing much confusion for the public.

- the appeal was refused and the applicant should be required to reinstate the property to its original condition.

- the original intention was for the basement to be used as a bedroom and then a communal living space.

ASSESSMENT

Design and impact on the character of the Conservation Area

Policy BE1 of the Local Plan states that new development will be permitted where it positively contributes to the character and quality of its environment through good layout and design. Development proposals should demonstrate that they harmonise with, or enhance, the existing settlement in terms of physical form so that the established character of the streetscene is respected. Policy BE1 states that in order to do this the development should adopt appropriate materials and details and respect the surrounding buildings in terms of scale, height, form and massing.

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 193 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.

Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Policy HE1 of the Warwick District Local Plan 2011-2029 states that development will not be permitted if it would lead to substantial harm to or total loss of the significance of a designated heritage asset, unless it is demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. The policy also states that where 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, including securing its optimum viable use.

Policy HE2 of the Warwick District Local Plan 2011-2029 seeks to retain the integrity and form of unlisted buildings in the Conservation Area and resist

alterations and demolitions to these buildings where this would have an adverse effect upon the overall character of the Conservation Area.

Policy RLS3 of the Royal Leamington Spa Neighbourhood Plan requires proposals to demonstrate that they harmonise with the existing character of the area in terms of design, scale and external facing materials. The policy supports the retention, restoration and reinstatement of period details e.g. decoration, ornamentation, ironwork.

Objections have been received from neighbours with concerns that the lightwell results in harm to the character of the street and the conservation area. Neighbours have drawn attention to the Officer's report for application ref: W/08/0930 where permission was granted for a front lightwell at No.13 Camberwell Terrace. Neighbours have made reference to the following paragraph from the Officer's for that application: '*There are no lightwells to any of the other properties within this terrace and it is questionable whether these houses were ever intended to have basement lightwells. However, given the size of front garden to this property in relation to the others in the street, this is the only property where one could be accommodated.* This is duly noted. However, significant weight must be given to the very recent appeal decision associated with the LPA's refusal of the previous application (ref: W/20/0980) at the application property for the construction of two lightwells. The application was refused by the LPA on the grounds that the lightwells resulted in harm to the character and significance of the conservation area. In the appeal decision, the Inspector stated that he did not agree with the LPA's view that the lightwell would appear as an incongruous feature in the streetscene and result in harm to the character and significance of the conservation area and the application property. Instead, the Inspector considered that the lightwells would have an acceptable impact due to being concealed from view by the boundary wall. The Inspector concluded that the street scene would be effectively unaltered by the development and '*although not an original feature, the windows and lightwell do not harm the legibility of the original dwelling or its architectural interest, which form part of the historic importance and significance of the LSCA*.'

The proposal submitted with this current application differs from the appeal proposal, rather than two lightwells the applicant has constructed a single larger lightwell that surrounds just the front and side face of the bay feature. The lightwell as constructed at the site is no more visible from the street than the lightwells detailed in drawings assessed at appeal. Officers therefore consider that it would be unreasonable to conclude that the works completed at the site are more harmful than the previous scheme. When compared with the previous scheme, the larger lightwell, grille and window are considered to have a similar impact on the character of the property and allow the original form of the property to be read. Officers consider that the lightwell has been constructed with appropriate materials.

The brick wall has been reinstated to have a similar appearance to the original wall and Officers are satisfied that this development has not resulted in harm to the character and significance of the conservation or to the Camberwell Terrace streetscene.

Neighbours suggest that approval of this application could encourage applications for similar lightwells at other properties in the street to be submitted in the future. While this may be the case, however any application would have to be judged on its own merits and given that the development subject of the current application is deemed acceptable, this is not reasonable grounds to refuse this application.

In light of the above, Officers consider that the lightwells respect the character and appearance of the street scene and preserves the character and appearance of the conservation area. As such the development complies with Policies BE1, HE1 and HE2 of the Warwick District Local Plan and Policy RLS3 of the emerging Royal Leamington Spa Neighbourhood Plan.

Amenity impacts

Warwick District Local Plan 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.

Numerous objections have been received from the public on the grounds that the basement does not provide adequate living conditions for use as a habitable space. Neighbours have reported to the Case Officer that the basement is in use. The planning statement submitted with the application states that the applicant intends for the space to be used as storage, not as a shared/ communal room. During a visit to the site the Case Officer was granted access to the basement by the applicant whom unlocked the door and advised that the tenants would not be provided with a key. The application must be assessed on this basis.

Private Sector Housing have been consulted and have confirmed that they raise no objection to the proposal, subject to the use of the basement being restricted to storage. Officers agree that the basement does not provide acceptable living conditions for use as a habitable room; the room has a low ceiling height, the windows do provide sufficient natural daylight or an acceptable level of outlook. The grille is considered to further constrain the outlook and light to the space.

These conclusions reflect the Inspector's findings on this issue. The notable difference between the current application and the proposal dismissed at appeal is that the basement is proposed for storage. Officers consider that the use of the basement for this purpose would be acceptable, however, it is considered that a condition is necessary to limit the use of the basement 'non-habitable' use only. One objector considers that the recommended condition is not sufficient to protect the amenity of the occupiers because it cannot be guaranteed that the landlord and tenants will comply. They acknowledge that the condition relies on the cooperation of the tenants and the landlord, and that there is a risk that if the lightwells are retained, the space will be used for living accommodation in the future. Instead, this neighbour considers that the approval should prohibit the use of the basement entirely and the basement should not be mentioned in any future marketing of the property. Whilst it is acknowledged that there is a history of complaints, breaches of planning and the licence conditions associated with this property, Officers consider that it would be unreasonable to prohibit the use of the basement entirely by way of a planning condition. There are also powers within

housing legislation which offer sufficient powers to intervene and regulate the use of the basement if necessary.

Neighbours have also requested that a condition be imposed to restrict the occupancy of the HMO to 4. Given that the development subject of this application does not impact on the use of the property as a HMO, as permission is not sought to increase or decrease the occupancy, this matter is not relevant to this case and the condition would not meet the tests of necessity and reasonableness. Matters such as this are dealt with by the Private Sector Housing department.

With regard to outlook, light and privacy, the proposed development is not considered to have an adverse impact on the amenity of the neighbours. Objectors to the applicant raised concerns with the potential for the space to be used for parties and to encourage anti-social behaviour. With the imposition of the recommended condition, the basement will not be permitted to be used as a habitable space where such gatherings could take place. The development is therefore considered to sufficiently protect neighbour amenity.

The application is considered to satisfy the criteria of Policy BE3.

Parking

Warwick District Local Plan Policy TR3 states that development will only be permitted that makes provision for parking which does not result in on-street car parking detrimental to highway safety. Development will be expected to comply with the parking standards set out in the most recent Parking SPD.

As the development does not create additional bedrooms, Officers are satisfied that the development will not result in increased demand for on-street parking that would be detrimental to highway safety. The development is therefore considered to comply with policy TR3.

Waste Management

Policy H6 of the Local Plan states that planning permission will only be granted for Houses in Multiple Occupation where adequate provision is made for the storage of refuse containers where by the containers are not visible from an area accessible by the general public and the containers can be moved to the collection point along an external route only. The purpose of this policy is to prevent unacceptable adverse impacts on amenity.

Policy BE1 states that development must make sufficient provision for sustainable waste management (including facilities for kerbside collection, waste separation and minimisation where appropriate) without adverse impact on the street scene, the local landscape or the amenities of neighbours.

One of the LPA's reasons for refusal in application ref: W/20/0980 was due to inadequate refuse storage space being available as a result of the lightwells. The Inspector assessing the appeal disagreed with this and considered that there was sufficient space for waste to be stored. He commented that '*while prior to the lightwell there would have been more space for the bins, it is likely that they would have been stored in a largely similar fashion as at the time of my visit. I*

nevertheless find that the reduced storage area would keep the bins together creating a tidier appearance for the frontage'.

The LPA are required to give significant weight to the appeal decision and given that there has not been a material change in circumstances at the site since the appeal decision was published, it would be unreasonable for Officers to come to a different view. The scheme is therefore considered to provide sufficient space for storage which is in keeping with the character of the streetscene and thus the application complies with Policies H6 and BE1 of the Local Plan.

Other matters

Neighbours have raised concerns regarding fire safety and the means of escape via the lightwell. Fire safety and egress are not material planning considerations and are instead matters dealt with as part of an application for building regulations and the HMO licence. This matter has therefore not been taken into consideration when assessing the proposed development.

Summary/Conclusion

The development at the property is considered to constitute good quality design which has an acceptable impact on the character of the streetscene and the conservation area. The lightwell is considered to appear sufficiently subservient and the wall is of a similar appearance to the original wall. The scheme of works is considered to preserve the character and appearance of the conservation area.

With the imposition of the recommended condition, the development has an acceptable impact on amenity.

The application is recommended for approval on the basis that it complies with all of the aforementioned Local Plan Policies, the relevant sections of the NPPF and Planning Act 1990 and policy RLS3 of the Royal Leamington Spa Neighbourhood Plan.

CONDITIONS

1 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, 200515 P01 R7 and 200515 P03 R7 submitted on 7th December 2020, and 200515_P02_R8 submitted 25th March 2021. **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.

2 The basement conversion facilitated by the lightwell hereby permitted shall not be used as a 'habitable room', which includes dining room, lounge, kitchen, study and bedroom. **Reason:** To ensure adequate amenity is provided for current and future occupiers of the application property and to satisfy the requirements of Policy BE3 of the Warwick District Local Plan 2011-2029.