Planning Committee: 19 July 2022 **Item Number:** 6

Application No: W 22 / 0212

Registration Date: 07/02/22
Town/Parish Council: Kenilworth **Expiry Date:** 04/04/22
Case Officer: Millie Flynn
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48 New Street, Kenilworth, CV8 2EZ
Part-removal of existing garden wall to form new pedestrian gate into garden from road FOR Noon

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This application is being presented to Planning Committee due to an objection from the Town Council having been 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

Planning permission is sought for the part removal of the existing garden wall to provide an opening for the installation of a new pedestrian gate providing access into the rear garden from Manor Road.

THE SITE AND ITS LOCATION

The application property relates to a Grade II Listed Building. The application dwelling is sited on a corner plot to the East of New Street and the South of Manor Road and lies within the Kenilworth Conservation Area.

PLANNING HISTORY

No relevant planning history.

RELEVANT POLICIES

- National Planning Policy Framework
- Warwick District Local Plan 2011-2029
- BE1 - Layout and Design
- BE3 - Amenity
- HE1 - Protection of Statutory Heritage Assets
- HE2 - Protection of Conservation Areas
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- Guidance Documents
- Residential Design Guide (Supplementary Planning Document- May 2018)
- Kenilworth Neighbourhood Plan (2017-2019)
- KP13 - General Design Principles
- KP13N - Design Management in New Street

SUMMARY OF REPRESENTATIONS

Kenilworth Town Council – Object to original proposal for vehicular access on following grounds:

- Increased risk of accidents on an already busy road
- Existing garden wall is in a sensitive location
- The proposal contravenes Neighbourhood Plan Policy KP13.

Maintain objection to amended proposal for pedestrian access.

WCC Highways - Object to original proposal for vehicular access on following grounds:

- Insufficient information submitted to fully assess the proposal
- Proposed gate is not set back the required distance to enable a car to pull away
- Visibility splays and pedestrian visibility splays required from a greater distance

Conservation and Design – Objection to original proposals. No objection to revised proposals for a pedestrian gate.

Conservation Advisory Forum – Objection to original proposal on grounds of perceived harm of breaking the historic wall with an entrance gate. Raised concerns that the application may be for permanent vehicular access rather than occasional garden maintenance. Considered that the wall is an attractive feature, and the proposed entrance location is close to a bend which would not provide a safe point of entry or exit.

Public Response – 2 objections based on the following grounds:

- Detrimental to the conservation area
- Wall is an important part of the street scene
- Unclear what the proposals are for

1 support comment received.

ASSESSMENT

Design and impact on the Conservation Area and Listed Building

Local Plan Policy BE1 states that new development will be permitted where it positively contributes to the character and quality of its environment through good layout and design. 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. 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.

The application site is a Grade II Listed Building and is located within the Kenilworth Conservation Area. Section 66 of the Planning (Listed Buildings and

Conservation Areas) Act 1990 explains that in considering whether to grant permission for developments affecting listed buildings or their setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72 of the Planning (Listed Buildings and Conservation Areas) 1990 imposes a duty when exercising planning functions to pay special attention to the desirability of preserving or enhancing the character of a Conservation Area.

Paragraph 199 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 202 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. This is also reflected in Policy HE1 of the Local Plan.

In addition, Policy HE1 of the Warwick District Local Plan 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 the harm or loss, or if criteria listed within the policy have been satisfied. 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. Warwick District Local Plan Policy HE2 (Protection of Conservation Areas) states that development will be expected to respect the setting of Conservation Areas and important views both in and out of them.

Policy KP13N of the Kenilworth Neighbourhood Plan States that the New Street Conservation Area forms an integral part of the character of the town of Kenilworth forming the Eastern entrance to the town and should be preserved and retained. Any future development in or near to this Conservation Area, should maintain the street scene and have regard to its originality within the town.

Objections have been received stating the proposal is within a prominent location within the streetscene, which will have a detrimental impact on the Conservation Area.

The Conservation Advisory Forum commented and objected to the vehicular access and gates as originally proposed. They have been informed of the revised pedestrian access gate, but no updated response has been provided.

Kenilworth Town Council have objected to the proposal stating that the existing garden wall is located within a sensitive location, which forms a significant part entrance route into the town centre. The Town Council considers that the proposal contravenes Kenilworth Neighbourhood Plan Policy KP13.

The Conservation Officer raises no objection to the amended proposal, stating that as the garden is sealed, with access only via the Listed Building, the introduction of an external entrance will allow for a more suitable access for the maintenance

of the garden. This addition will improve the setting of the Heritage Asset, in terms of garden maintenance, but also benefit the maintenance and care of the Listed Gazebo situated in the garden of No.48, if such application was forthcoming.

The proposed development would be in a less sensitive proposal, when read in the context of the site, as the pedestrian access gate is situated on Manor Road, away from the main elevation of the dwelling. The impact of the alteration upon the Heritage Asset is considered to be neutral. Officers are also mindful that the proposal is located close to an existing pedestrian gate. There will be no major visual disruption to the existing boundary wall, as the proposal allows the wall to continue above the proposed opening for the gate. This feature is also not uncommon in the area and is not considered to unacceptably detract from the historic or architectural value of the Listed building and Conservation Area.

The existing boundary wall should be made good upon completion of the proposed works and a condition will be added to any granted approval to ensure that the gate is kept a neutral colour, to be in keeping with the streetscene and the Conservation Area. The Conservation Officer has noted that the maintenance of the wall is important. This has also been noted by the applicant; that any removed bricks will be utilised for the repairs in the wall. This is supported.

The proposed development is not considered to result in harm to the character, appearance or setting of the Listed Building and would preserve the character of the surrounding Conservation Area. It would accord with the relevant national policy and policies forming part of the development plan in relation to heritage assets. The proposal is also considered to have an acceptable impact on the streetscene and the surrounding area.

The proposed development is therefore considered to comply with Section 66 and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Section 16 of the National Planning Policy Framework, Local Plan Policies BE1 and HE1, Neighbourhood Plan Policy KP13N and the Residential Design Guide SPD.

Impact on the amenity of the neighbouring uses

Local Plan Policy BE3 requires development to have acceptable impact on the amenity of all neighbouring residents, in terms of light, outlook and privacy. The Council's Residential Design Guide SPD provides a design framework for Policy BE3 and states that extensions should not breach a 45-degree line taken from the nearest habitable room of the neighbouring property. This aims to prevent any unreasonable effect on the neighbouring dwelling, by reason of loss of light, unneighbourly effect or disturbance/intrusion from nearby uses.

The proposals will not result in any additional loss of amenity over and above the existing layout.

It is considered the proposals comply with Local Plan Policy BE3.

Highway Safety

The Highway Authority and Kenilworth Town Council both objected to the original proposal for a new vehicular access via double gates onto Manor Road. However,

the proposal has now been amended to omit the vehicular access and has instead been changed to a pedestrian only gated access. The amendment is considered to overcome the objections raised in respect of the original proposal.

Therefore, the amended proposal is no longer considered detrimental to highway safety and therefore is in accordance with Local Plan Policy TR1.

SUMMARY/CONCLUSION

The proposals would not have a detrimental impact on the Listed Building and would preserve the appearance and character of the Conservation Area. In addition, the proposals are not considered to have a harmful impact upon the amenity of the neighbouring properties in relation to outlook and amenity. The proposal will not have a detrimental impact upon highway safety. The proposals are in accordance with the aforementioned policies, and it is therefore recommended for approval.

CONDITIONS

1 The development hereby permitted shall begin not later than three years from the date of this permission. **Reason:** To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawing(s) PAL.02, PAL.054, PAL.020, PAL.021 and specification contained therein, submitted on 30th May 2022. **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 No development shall be carried out above slab level unless and until large scale details of the gate, including any fittings or fastenings which should be metal, at a scale of 1:5 (including details of materials e.g. frame, gate, brickwork and mortar) 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.