

Application No: W 06 / 1158

Registration Date: 12/07/06

Town/Parish Council: Leamington Spa

Expiry Date: 06/09/06

Case Officer: John Beaumont

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10-12 Adelaide Road, Leamington Spa, CV31 3PW

Change of use of No.10 Adelaide Road from bed and breakfast use to a hotel with associated works and landscaping, including works to improve disabled access FOR Mr & Mrs Wan

This application is being presented to Committee due to an objection from the Town Council having been received. The Ward Member, Councillor Gifford has also requested this application be considered by the Planning Committee as it is a matter of considerable concern and due to the difficult history, including the Planning Inquiry.

SUMMARY OF REPRESENTATIONS

Town Council: Object.

1. Loss of residential development to commercial use within the Conservation Area;
2. Proposal will result in changes to the character and appearance of the dwelling which will adversely affect the Conservation Area;
3. Provision for access and parking within the site are unsatisfactory and do not conform to policies DP6/DP8 of the Local Plan.
4. Concern is expressed at the implications for highway safety arising from the concentration of traffic accessing the site off Adelaide Road.
5. The unauthorised removal of trees from the site should be rectified with the restoration of appropriate species in the same location as originals.

Neighbours: 1 neighbour from Victoria Street to the rear of the site has objected to the increase in noise and disturbance due to the creation of a rear car park and loss of landscaping.

The occupiers of No. 8 Adelaide Road have submitted lengthy representations against this application which in summary raise the following issues:-

1. The applicant has failed to demonstrate there is adequate protection for neighbours internal and external amenity in their dwellings (particularly in respect of the elimination of disturbance through noise via the stairway area of the Party Wall).
2. Objection on the grounds stated in the previous application W04/2088 (and subsequent appeal) i.e. loss of residential dwelling, detrimental change in character and appearance of dwelling, highway safety, off-road car parking.
3. No evidence exists of works stated to have already been carried out to reduce noise transmission. (N.B. Works were supervised by an 'approved inspector',

not WDC Building Control). It is stated that not less than 65 decibels reduction from the treated party wall would be appropriate.

4. Objection that the application does not contain adequate construction details regarding the proposed works to the Party Wall.

5. Objection that the landscaping proposals are inadequate.

In conclusion, it is stated that the further expansion of the hotel at No. 12 into the semi-detached private residence at No. 10 remains inappropriate and is detrimental to the amenity of No. 8. Additionally, if the committee is minded to overturn the Appeal Decision, W04/2088 then it is necessary to ensure that:-

" - Conflicting details within the Application Report and drawings (plus recent events at the site) for both internal and external measures are resolved and consistent and realistic, rather than aspirational.

- Technical feasibility and construction details of proposed further noise insulation measures on the Party Wall - particularly the staircase areas in order to ensure there is no loss of integrity of wall itself - are provided, together with evidence that the means to achieve them are guaranteed.

- Conditions to ensure conformance of the Applicant's proposals with respect to the requirements currently stated in the Report and drawings, and any Conditions applied by WDC."

The neighbours have submitted further documents as Appendices to their objection to amplify their submitted objections.

CAAF: The proposals were not liked. The question was raised as to whether the building had in fact ever been a 'bed and breakfast'. Concern was expressed over the loss of residential accommodation along the street, a largely residential street, the loss of hedge and garden. The proposal was felt to be very unfriendly to its neighbour (and street). Sets a poor precedent for the area as a whole. Plastic windows to rear (enforcement issue?). N.B. As the new windows were installed into a dwelling they did not require planning permission.

Head of Environmental Health: No objection. The scheme as put forward appears to respond to the Inspectors comments. I would suggest conditions to secure acceptable implementation of the submitted scheme.

RELEVANT POLICIES

- (DW) ENV3 - Development Principles (Warwick District Local Plan 1995)
- (DW) TO5 - Extension of Existing Hotels and Guest Houses (Warwick District Local Plan 1995)
- (DW) ENV6 - Protection and Enhancement of Conservation Areas (Warwick District Local Plan 1995)
- (DW) ENV8 - New Development within Conservation Areas (Warwick District Local Plan 1995)
- (DW) TO4 - Change of Use to Hotels or Guest Houses (Warwick District Local Plan 1995)
- (DW) H13 - Loss of Existing Residential Accommodation and Development within Existing Residential Areas (Warwick District Local Plan 1995)

- (LTC) H2 - Limiting the expansion of the commercial core (Warwick District Local Plan 1995)
- UAP8 - Directing New Visitor Accommodation (Warwick District 1996 - 2011 Revised Deposit Version)
- TCP10 - Protecting the Residential Role of Town Centres (Warwick District 1996 - 2011 Revised Deposit Version)
- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011 Revised Deposit Version)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011 Revised Deposit Version).
- DP6 - Access (Warwick District Local Plan 1996 - 2011 Revised Deposit Version)
- DP8 - Parking (Warwick District Local Plan 1996 - 2011 Revised Deposit Version)
- DAP10 - Protection of Conservation Areas (Warwick District 1996 - 2011 Revised Deposit Version)
- DAP11 - Unlisted Buildings in Conservation Areas (Warwick District 1996 - 2011 Revised Deposit Version)

PLANNING HISTORY

The lawful use of this property is as a dwelling house within the meaning of Class C3 of The Town and Country Planning (Use Classes) Order 1987 (as amended). It is understood that on the completion of the recent refurbishment of this property, rooms have also been let as 'bed and breakfast', ancillary to its residential use. This use has been the subject of an enforcement investigation.

Planning permission W04/2088 was refused by the Planning Committee on 1st June 2005 for the change of use of 10 Adelaide Road to form additional hotel accommodation for the Victoria Park Hotel (12 Adelaide Road), closure of existing driveway opening to 10 Adelaide Road, erection of new rear boundary wall to 10 Adelaide Road and installation of chairlift to 12 Adelaide Road for the following reasons:-

1. Policy (DW) ENV3 of the Warwick District Local Plan requires all development proposals to achieve a high standard of design, having regard to the character of the area and harmonising with their surroundings. Policy DP1 of the Warwick District Local plan 1996-2011 requires all development proposals to make a positive contribution to the character and quality of its environment through good layout and design and Policy DP2 of the same plan states that development will not be permitted which has an unacceptable adverse impact on the amenity of nearby users and residents and/or does not provide acceptable standards of amenity for future uses/occupiers of the development.

In the opinion of the District Planning Authority, the proposal would constitute an unneighbourly form of development by reason of the loss of privacy and general noise and disturbance resulting from the increased level of activity both within and around the site which would be exacerbated in particular by the site being a semi-detached property, the balance of which is in residential use.

The proposal would thereby be contrary to the above policies.

2. The application site is located in a Conservation Area which Policy (DW) ENV6 of the Warwick District Local Plan 1995 states will be protected from development which would have a detrimental effect upon their character or appearance. It is also identified in the Proposals Map in the Warwick District Local Plan 1995 as being in a primarily residential area wherein Policies (DW) H14 and (LTC) H2 states changes of use to other uses will be restricted. These policies are reflected by Policies DP1, DP2, DAP10 and TCP10 of the Warwick District Local Plan 1996-2011 (first deposit version).

In the opinion of the District Planning Authority the proposal would have a detrimental effect on the character and appearance of the Conservation Area by reason of the unacceptable loss of a property in residential use and the resulting unacceptable consolidation of the non-residential uses in this section of Adelaide Road.

The proposal would thereby be contrary to the aforementioned Local Plan policies.

A subsequent appeal against this refusal was dismissed on 3rd March 2006; a copy of this appeal decision is attached. The Inspector concluded that the proposal as submitted would cause unacceptable noise and disturbance to the neighbouring occupiers at No. 8 Adelaide Road. She noted 6 bathrooms would be located adjacent to the 'party wall' and no additional insulation was proposed to the staircase where people carrying luggage up and down stairs and through doors could cause significant amounts of noise. She concluded that "the submissions do not include any explanation of the proposed insulation measures, and I share the concerns raised in the Council's appeal statement about their effectiveness. I have considered whether imposing an appropriate condition could resolve this matter. However, having regard to the age and nature of the existing building and to all the other information before me, including the neighbours' reference to BS8233 (Sound Insulation & Noise Reduction in Buildings), I am not satisfied there is sufficient certainty of achieving adequate mitigation to take this approach. In these circumstances I conclude that the proposal would result in unacceptable noise and disturbance to the neighbouring occupiers at No. 8."

KEY ISSUES

The Site and its Location

The premises comprise the existing Victoria Park Hotel that is housed in a 2/3 storey detached villa at 12 Adelaide Road and one of a pair of 3 storey semi-detached houses at No. 10. The properties stand on the western side of Adelaide Road within a predominantly residential part of the Conservation Area, that also includes residential care homes at Nos. 6 and 14/16 Adelaide Road. Residential properties adjoin the site to the north and west at 8 Adelaide Road and dwellings in Victoria Street.

Both properties are set back from the road frontage on a common building line. Both properties differ in original design and appearance but are similar to other properties in Adelaide Road. The frontage of No. 12 is laid out as a hard surfaced parking area with a further parking area at the rear adjoining the western boundary with residences in Victoria Street. No. 12 has also been extended by

the addition of a rear wing (W981416) and operates as a hotel with guest bedrooms and dining/bar facilities.

In contrast, No. 10 originally had enclosed front and rear gardens that are now largely open plan as result of the removal of dividing garden boundary walls and hedges. Trees within the original rear garden have also been felled. A new lawn has been laid to the rear of No. 10 with some shrub planting and a timber trellis that denotes the end of the lawn. The balance of the original rear garden to the rear has been laid out as a car park and the vehicular access to the rear has been widened along the side of No.10 Adelaide Road; the front of No. 10 has also been hard surfaced as a car park.

Details of the Development

This application has been submitted by the applicants to seek to address the reason for refusal, W04/2088. The proposal entails the provision at No. 12 Adelaide Road of an external disabled access call point with internal changes to improve disabled persons access and toilet provision. At No. 10 Adelaide Road, the submitted plans show the basement to be used as staff accommodation (with two en-suite bedrooms and a kitchen) and the ground, first and second floor providing hotel letting accommodation comprising 6 double bedrooms and two single bedrooms; all bedrooms would have en-suite facilities. A new en-suite bathroom is shown to be created within the ground floor hallway and the staircase is shown to be repositioned off the party wall with insulation fixed to the boundary wall. No bathrooms have been shown on the party wall with No. 8 Adelaide Road. Sections have been submitted to show the details of proposed insulation works.

No external changes are proposed to No. 10 Adelaide Road. A proposed site plan has also been submitted, with an elevational plan, showing the existing rear car park returned to garden with a new reclaimed brick boundary wall, with coping, 1.8 m high along the rear garden boundary to the access between Nos. 12 and 10 Adelaide Road. Additional planting is shown within the rear garden. The layout of front car park is shown to be amended to provide two car parking spaces accessed off Adelaide Road.

A statement of support has been submitted with the application, together with an Acoustic report which concludes the proposed improvements to the party wall is expected to achieve a 60-65 db reduction, whilst isolating the staircase from the party wall and providing an independent wall lining with carpet/underlay being provided on the staircase would further reduce the impact of footfall noise on the staircase.

Assessment

I consider the proposed works to No. 12 Adelaide Road which is already in use as a hotel would be acceptable and would not harm either the amenities of neighbours or the character/appearance of the Conservation Area.

With regard to the proposed change of use of No. 10 Adelaide Road to hotel use, the issues surrounding this proposal were discussed at the planning appeal into the refusal of application W04/2088; this appeal decision is attached to this report. This application has been submitted to seek to address the Inspectors

concerns; Circular 8/93, Costs in Planning and other Proceedings advises in Annex 3, Paragraph 16, that a planning authority are likely to be regarded as having acted unreasonably, in the event of a successful appeal against their refusal of planning permission, if it is clear from a relevant earlier appeal decision that the Secretary of State or Planning Inspector would have no objection to a revised application in a form which was ultimately allowed and circumstances have not changed materially meantime.

In this instance the application has been amended to show all bathrooms resited off the party wall and details of sound insulation works to the interior of the building, including resiting the staircase off the party wall to achieve an improved sound attenuation to protect the amenity of residents in the neighbouring property, No. 8 Adelaide Road. Some of these works are shown to have already been implemented; others (and in particular the resiting of the staircase) remain to be undertaken. Clearly I am conscious of the objections of neighbours to these proposals and their strong concerns that these works may not achieve acceptable levels of sound attenuation. I have, however, noted the contents of the reports submitted in support of the application and am aware that the Head of Environmental Health has concluded that if all the sound insulation works are implemented and their effectiveness to achieve a sound reduction of not less than 60 db, then he would raise no objection. Given these specific amendments and insulation measures now contained in this revised application, I consider that it would not be now possible to sustain a refusal based on unacceptable noise and disturbance to the neighbouring occupiers at No. 8, subject to an appropriate planning condition.

In accordance with the Inspectors comments, I consider it would also be necessary to impose conditions to secure the implementation of the landscaping works, including the reconstruction of the proposed boundary wall, the provision of a disabled parking space and to secure an increase in width of the access to the rear car park which would serve both No. 12 and No. 10 Adelaide Road.

RECOMMENDATION

GRANT, subject to the conditions listed below.

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years from the date of this permission. **REASON** : To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the approved drawing numbers A04, 181, 124a, 126, 129, 130, 131, 133 and 134 and specification contained therein, unless first agreed otherwise in writing by the District Planning Authority. **REASON** : For the avoidance of doubt and to secure a satisfactory form of development in accordance with Local Plan Policy ENV3.

- 3 Before the hotel use hereby permitted is first commenced the conversion works and sound insulation works identified on the approved plans and further described in the applicants architects Planning Application Report and Bureau Veritas Report which accompanied the application and in particular the repositioning of the staircase and sound proofing of the party wall adjoining the staircase shall be wholly implemented strictly as so identified and further described, and a sound insulation test shall have been undertaken in accordance with the provisions of The Building Regulations Approved Document E, Resistance to the passage of sound 1st July 2003, with regard to Pre-Completion Testing which demonstrates that an airborne sound insulation of not less than 60 db Rw has been achieved on the party wall between Nos. 10 and 8 Adelaide Road, as measured within each room and the whole of the staircase adjoining that party wall. The sound attenuation works undertaken in accordance with the requirements of this condition shall thereafter be retained as so approved at all times. **REASON** : To protect the amenity of the occupiers of No. 8 Adelaide Road in accordance with the requirements of policy ENV3 of the Warwick District Local Plan 1995).
- 4 Before the hotel use hereby permitted is first commenced, all stair treads shall be fully carpeted and all internal doors into bedrooms and bathrooms shall be fitted with self-closures, details of which shall first be submitted to and be approved in writing by the District Planning Authority, and thereafter the stair treads shall be retained carpeted and the self-closures shall be retained in position at all times. **REASON** : To protect the amenity of the occupiers of No. 8 Adelaide Road in accordance with the requirements of policy ENV3 of the Warwick District Local Plan 1995).
- 5 Notwithstanding the details shown on the approved plans, before the hotel use hereby permitted is first commenced, details of a scheme to resite the existing southern gate pillar adjacent to the access off Adelaide Road serving the car park to the rear of No. 12 Adelaide Road to widen the access to 5 m shall be submitted to and be approved in writing by the District Authority, and the gate pillar shall be resited and the access shall have been widened strictly as shown on the approved plan. **REASON** : In the interests of highway safety and to comply with the requirements of Policy ENV3 of the Warwick District Local Plan 1995.
- 6 Notwithstanding the details shown on the submitted plan, before the hotel use hereby permitted is first commenced a landscaping scheme, incorporating existing trees and shrubs to be retained and new tree and shrub planting for the whole of those parts of the site not covered by buildings shall be submitted to and approved by the District Planning Authority before the development hereby permitted is commenced. Such approved scheme shall be completed, in all respects, not later than the first planting season following the commencement of the hotel use hereby permitted hereby permitted, and any trees removed, dying, being severely damaged or becoming seriously diseased within five years of planting, shall be replaced by trees of similar size and species to those originally required to be planted. Existing trees which are shown as being retained shall be dealt with in accordance with BS 5837:2005. **REASON** : To protect and enhance the amenities of the area, and to satisfy the requirements of Policy ENV3 of the Warwick District Local Plan.

- 7 Before the hotel use hereby permitted is first commenced, the proposed wall between No.10 and No. 12 Adelaide Road shall be constructed strictly as shown on Drawing No. A04.181.131 in accordance with a sample of brick and details of coping, brick bond and mortar mix which have first been submitted to and have been approved in writing by the District Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details and shall thereafter be retained as so approved at all times. **REASON** : To ensure an appropriate standard of design and appearance within the Conservation Area and to satisfy policies ENV6 and 8 of the Warwick District Local Plan 1995.

- 8 No lighting shall be fixed to the external walls or roofs of the existing or proposed hotel building or on any open land within the application site without the prior written approval of the District Planning Authority. **REASON** : To protect the amenity of nearby residential properties in accordance with the requirements of Policy ENV3 of the Warwick District Local Plan.

- 9 Before the hotel use hereby permitted is first commenced, details of the design and siting of a disabled car parking space within the curtilage of either No. 10 or No. 12 Adelaide Road shall be submitted to and be approved in writing by the District Planning Authority and shall have been laid out strictly as approved. **REASON** : In the interests of highway safety in accordance with the requirements of policy ENV3 of the Warwick District Local Plan.

INFORMATIVES

For the purposes of Article 22 of the Town and Country Planning (General Development Procedure) (England) (Amendment) Order 2003, the following reason(s) for the Council's decision are summarised below:

In the opinion of the District Planning Authority the development would not adversely impact on the character or the appearance of the Conservation Area, cause a highway danger or adversely affect the amenity of neighbours such as to justify a refusal of planning permission. The proposal is, therefore, considered to comply with the policies listed.
