

**Planning Committee:** 23 August 2005

**Item Number:** 05

**Application No:** W 05 / 0707

**Registration Date:** 28/04/05

**Town/Parish Council:** Leamington Spa

**Expiry Date:** 23/06/05

**Case Officer:** John Beaumont

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**Workshop Premises, Spencer Yard, Leamington Spa, CV31 3NJ**  
Conversion and extension of building to provide 2 self-contained flats FOR Mr N  
Singh Kandola

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This application has been requested to be presented to Committee by Councillor Copping and Councillor Kundi.

### **SUMMARY OF REPRESENTATIONS**

**Town Council:** Objection. Regrets loss of an employment use which represents a departure from the employment objectives of the Local Plan. Concern expressed that approval of the application may constrain the future development of 'Opportunity site D'.

**Neighbours:** 2 neighbours have written to support the scheme which was considered to enhance the area, would help alleviate problems of trespass and vandalism especially in evenings/weekends. Unit should not stay empty. 1 neighbour has written to object due to noise, odours and general disturbance from people using the area; absence of lighting, area not suitable for residential use.

**C.A.A.F.:** "It was pointed out that this was a very nice building and it was felt that the conversion ruins the existing attractive building. It was suggested that the building should be treated as a barn conversion and the window detailing and original structure retained and converted without any form of extension. It was felt that the gable extension at the front and the staircase extension were totally inappropriate. Councillor Copping requested that this be brought to the Planning Committee as a Principal Item."

**W.C.C. (Ecology):** No objection.

**W.C.C. (Highways):** No objection.

**Environmental Health:** "I understand that the applicant is willing to agree that the occupiers could be restricted to his employees at the Five Rivers Restaurant. I stated that the extract system at the Kismet is subject to statutory nuisance action by this department. If a condition could be applied that the dwellings were not occupied until this was satisfactorily resolved then I would agree to granting of permission.

However, I note the Planning Officer's comments that it would not be possible to apply such a condition and therefore my objection to this proposal remains, on the grounds of potential for odour nuisance. "

**Environment Agency:** Initially objected as the application was not accompanied by a flood risk assessment (the site is in a designated high risk zone). In response to a submitted statement the further comments were submitted:-

"The Agency are in receipt of a Flood Risk Assessment for the proposed development. After consulting the assessment it is clear that the site at present is at risk of flooding from the River Leam during a 1 in 100 year event and would have flooded during 1998 were it not for the presence of the buildings on Bath Street to route the water away from the site.

The Agency accept that the proposed development does not involve increasing the size of the building therefore resulting in no net reduction in the apparent floodplain of the River Leam. However, the conversion of the property from a workshop to residential development in a flood risk location such as this goes against national planning policy guidance as it involves introducing more people into a flood risk location. This places an increased burden on the emergency services should they be needed in an evacuation situation from flooding and is a potential risk to human health.

The assessment provides details of an escape route to evacuate the property to the courtyard area outside of the floodplain to the west of the property via a "planting box". The Agency believe that an outside staircase from the first floor flat to the courtyard area would be more appropriate along with a ground floor entrance to the courtyard. Once in this courtyard area, the residents of the property although on dry ground have no means of dry exit to Spencer Street. This is not acceptable arrangement to the Agency and if safe dry access and egress from the property is to be achieved, then negotiations should be made with the owners of Avenue Public House to gain access to Spencer Street through the pub.

The Agency do not find the proposed finished floor levels to be acceptable. It is Agency policy to request that finished floor levels be set 600 mm above the 1 in 100 year flood level.

At this site, the proposed finished floor level is 20 mm above the 1 in 100 year flood level of 50.71 m above ordnance datum. This has been proposed because of the restrictions of the height of the building in order to construct a suitably sized first floor flat. This is unacceptable to the Agency as it provides negligible protection against the property from flooding.

The Agency will not support the development if the Local Planning Authority are minded to approve it. It does not follow National Planning Policy Guidance Note PPG25: Development and Flood Risk or Agency policy regarding finished floor levels and safe dry pedestrian access and egress from the development.

We would recommend if permission is granted that the development be constructed as detailed in paragraphs 5.2 and 5.3 of the Flood Risk Assessment. Making sure electrical sockets in the ground floor flat are set above the 1 in 100 year flood level, using flood proofing measures to prevent flood water entering the property through the front door and avoiding the use of air/ventilation bricks, which would provide another way for water to potentially enter the property. As well as incorporating the safe dry access and egress arrangements suggested."

## **RELEVANT POLICIES**

(DW) ENV3 - Development Principles (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)  
(LTC) ENV5 - Old Town Enhancement.  
DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011 First Deposit Version)  
DP2 - Amenity (Warwick District Local Plan 1996 - 2011 First Deposit Version)  
DP10 - Flooding (Warwick District Local Plan 1996 - 2011 First Deposit Version)  
DAP10 - Protection of Conservation Areas (Warwick District 1996 - 2011 First Deposit Version)  
TCP7 - Opportunity Sites in Old Town, Leamington Spa (Warwick District 1996 - 2011 First Deposit Version)

## **PLANNING HISTORY**

There is no relevant planning history.

## **KEY ISSUES**

### **The Site and its Location**

The site comprises a building, presently vacant, and its forecourt accessed off Spencer Yard. The building was formerly occupied by a printing business. It is mainly 2 storey, brick built with a slate roof. It is adjoined to the rear by the Avenue Public House and other premises both fronting Spencer Street and forming the rear of Victoria Terrace.

### **Details of the Development**

The proposal entails the alteration and extension of the existing building to form two, two bedroomed flats; these would each only have windows on the north-east elevation to Spencer Yard. The submitted plans show that 3 car parking spaces could be provided on the forecourt to the building. The applicant has submitted amended plans and a flood risk assessment to seek to address the concerns of the Environment Agency. These show the floor levels of the ground floor flat to be set at 50.73 m A.O.D. (i.e. 400 mm above existing floor levels and above the 1:100 year flood level of 50.71 m A.O.D.). An emergency access is also proposed through a window to the higher ground level in the parking area adjacent to the property. The applicants agent has commented that recognising the concerns of Environmental Health, it is suggested to the Planning Committee that the flats could be occupied by members of his kitchen staff at the adjacent Five Rivers Restaurant until such time as the issue of odours has been satisfactorily resolved. He has also commented on the merits of the structure and concludes that the general benefits of the scheme are considered to outweigh a potential problem with periodic odour smells.

## **Assessment**

The site is within an area identified as an "Enhancement Area" in the Warwick District Local Plan 1995 and an "Opportunity Site" in the Warwick District Local Plan 1996-2011, revised deposit version. I consider that a scheme of residential conversion which secured a beneficial use for this presently vacant building would not undermine the objectives of these policies or be incompatible with the "cultural quarter" initiative; and indeed by adding to the vitality of the area and activity taking place within it, then scheme could be perceived to be to the benefit of this locality. I consider, however, the scheme raises the following main issues:-

### **Impact on the character/appearance of the Conservation Area:-**

Whilst noting the views of C.A.A.F., I consider that the design of conversion now submitted would not detract from the appearance of the existing building or the wider character of this locality to a degree which would justify refusal. Subject to the use of appropriate materials and careful detailing, I consider the proposal would sit comfortably on this site in the Conservation Area.

### **Residential Amenity:-**

I recognise that this building occupies a site of limited size and awkward configuration at the rear of the premises fronting onto Spencer Street and Victoria Terrace. Nevertheless, the upper floors of these premises are often in residential use and in principle I consider the proposed residential conversion to two "town centre" flats would be acceptable on this site and would provide an acceptable environment for the future occupiers. I note, however, that at this time the Environmental Health Officer has advised this locality does suffer odour nuisance. Until such time as that nuisance has been resolved, I do not consider it would be acceptable to grant permission for new residential units.

### **Flooding:-**

As will be seen from the consultation reply set out above, the Environment Agency has considered the design and submission made by the applicants but does not support this development. In the light of their detailed response. I consider that objection must be raised to the proposal on the grounds of possible flood risk to the future occupants of the proposed flats.

In conclusion, whilst being mindful of the submissions made in support of the application by the applicants agent, I consider that in the context of the existing odour nuisance within this locality and the flood risk assessment of the Environment Agency, objection must be raised to this proposals.

## **RECOMMENDATION**

REFUSE, as amended, for the following reasons :

- 1 Policy (DW) ENV3 of the Warwick District Local Plan 1995 requires all development to harmonise with their surroundings in terms of land use; this is reflected by Policy DP2 of the Warwick District Local Plan 1996-2011 Revised Deposit Version, which states development will not be permitted

which does not provide an acceptable standard of amenity for future users/occupiers of the development. PPG23 (Planning and Pollution Control states the planning system should also control development in proximity to potential sources of pollution to ensure future occupants can be protected from pollution).

The site of the proposed development is presently affected by odour nuisance resulting from the operation of nearby restaurant activity.

In the opinion of the District Planning Authority, in the light of the existing odour nuisance it would be inappropriate to grant planning permission for this proposed residential development, the occupiers of which would not have a satisfactory standard of amenity. The proposal is therefore considered to be contrary to the aforementioned policies.

- 2 Policy (DW) ENV3 of the Warwick District Local Plan 1995 requires all development to have full regard to flood protection; this is reflected by Policy DP10 of the Warwick District Local Plan 1996-2011, Revised Deposit Version.

The site is identified by the Environment Agency as being at risk of flooding from the River Leam during a 1:100 year event and would have flooded during the Easter 1998 floods were it not for the presence of the buildings on Bath Street to route the water away from the site.

In the opinion of the District Planning Authority, the proposed residential conversion would be contrary to the objectives of the aforementioned policies and the advice of Environmental Agency who have concluded it would not follow National Planning Guidance Note PPG25, "Development and Flood Risk", or Agency Policy regarding finished floor and safe, dry pedestrian access and egress from the development. The proposal is therefore considered to be contrary to the aforementioned policies.

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