

Planning Committee: 09 December 2003
Application No: W20030577

Principal Item Number: 4

Town/Parish Council: Leamington Spa

Registration Date: 08/04/2003
Expiry Date: 03/06/2003

Case Officer: Alan Coleman
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14-20, PARADE, LEAMINGTON SPA.

Change of use of existing offices on the first, second and third floors to provide 16. no. self-contained apartments.
FOR TRUDSON LTD

This application was deferred at Planning Committee on the 20th October 2003, for detailed information on noise and sound attenuation measures.

An acoustic report has now been submitted on behalf of the applicants to assess the required performance and configuration of glazing to satisfy the requirements of the Head of Environmental Health regarding internal noise within the proposed apartments. Further noise measurements were undertaken by the consultants between 23.55 hours on 6th November 2003 and 01.55 hours on 7th November 2003. The measurements taken were similar to those measured by the Head of Environmental Health on 3rd August 2003. On the basis of this data the report recommends the following measures:

- make good existing windows and provide good seals;
- line window reveals using acoustically absorbent material, and;
- install a secondary glazed casement of 6.4 mm PVB glass at a minimum distance of 100 mm from the primary window.

The Head of Environmental Health is satisfied that these measures would achieve acceptable internal noise levels within the proposed apartments.

On this basis details of secondary glazing and ventilation have been prepared which are also acceptable to the Principal Conservation Officer.

The report that follows is that which was presented previously with amended comments from the Head of Environmental Health.

SUMMARY OF REPRESENTATIONS

English Heritage (amended plans): No objection.

CAAF (original plans): *"The present scheme as tabled was considered totally unacceptable as there was far too much subdivision of the first and second floor rooms, particularly as this is a Grade II* Listed Building. The Conservation Officer pointed out there had been some negotiations and it was hoped that the majority of the partitioning in the principal rooms would be removed. It was requested that if there were any further problems with subdivision following the re-submission the item should be brought back to the CAAF, however, all subdivisions have been removed and all principal rooms on first and second floors have been maintained it would not be necessary to return it to the CAAF."*

Town Council: No objection.

Highway Authority: No objection.

Head of Environmental Health (amended plans): No objection, subject to a condition requiring the submission of a noise insulation scheme to reduce noise levels inside habitable rooms from external noise sources and provision of refuse storage. (Noise insulation scheme): No objection.

Neighbours: One letter of objection on behalf of the proprietor of 'Sugar' nightclub at 5-9 Tavistock Street on grounds relating to: inadequate provision of car parking to serve the development, and; the introduction of noise sensitive residential development in close proximity to the nightclub premises which may thereby cause it to inadvertently operate in breach of extant planning controls on noise and impose an unreasonable burden upon the business to ensure compliance and, in turn, the listed building within which it operates.

RELEVANT POLICIES

The Development Plan includes the Warwickshire Structure Plan of 2001 and the Warwick District Local Plan of 1995. Policy GD4 of the Structure Plan expects local plans to take conservation areas into account. Policy (DW) ENV3 of the Local Plan requires development proposals, *inter alia*, to achieve a high standard of design, to have regard for existing landscape features and to harmonise with their surroundings in terms of design and land use. Policy (DW) ENV6 seeks to protect conservation areas from development which would have a detrimental effect on their character or appearance. Policy (DW) ENV8 requires development in conservation areas to achieve a high quality of design appropriate to the special historic or architectural character of the area and to harmonise in scale and form with their surroundings. With reference to listed buildings Policy (DW) ENV11 presumes against proposals that would have an adverse impact on their character, whilst Policy (DW) ENV12 seeks to refuse development which would have an adverse effect on the setting of listed buildings. Policy (DW) ENV15 encourages the full use of listed buildings within town centres with preference for the reinstatement of the original use, whilst Policy (LTC) H3 encourages the conversion of upper floors of buildings within town centres to residential use.

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be paid to the desirability of preserving a listed building or its setting. Section 72(1) of that Act requires special attention be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

Pertinent advice is also given in government statements of planning policy in the form of PPG3: *Housing*, PPG15: *Planning and the Historic Environment* and PPG24: *Planning and Noise*.

PLANNING HISTORY

The recorded planning history of the premises dates back to 1953 and primarily relates to the adaptation and conversion of the upper floors from residential accommodation to office use, together with shopfront installation and signage proposals.

KEY ISSUES

The Site and its Location

The premises comprise 4no. 4-storey Grade II* listed buildings that stand as part of a terrace of listed buildings on the western side of Parade within the Leamington Conservation Area. The ground floors of the premises are currently occupied as retail shops and a restaurant. The upper floors of each building have separate and independent access from Parade via lobbied staircases. However, there is access to the ground floor shop unit of 18 Parade from the hallway.

The upper floors of 14 and 16 Parade are currently occupied as offices. Whilst the original layout has been altered by the sub-division of rooms, nevertheless original features such as cornices, skirting boards, ceiling roses, architraves, doors and timber sash windows remain intact. However, these are less apparent in the rooms in the rear wings of these buildings.

The upper floors of 18 and 20 Parade are vacant and remain in good condition throughout with most of the original layout of the rooms and original features retained.

There is vehicular access to a parking area at the rear of the properties from Tavistock Street through archway openings in the Grade II listed former coach house premises at 5-9 Tavistock Street. Car parking is also available in the public surface and multi-storey car park in Tavistock Street, which is less than 60 metres away from the premises.

The former coach house at 5-9 Tavistock Street is in use as a nightclub. Planning Permission and Listed Building Consent was granted by this 'Committee at the meeting on 2 June 1998 under applications W980432 and W980433LB. The level of noise from music, voices and entertainment emanating from the nightclub premises is controlled under the terms of condition 5 of the planning permission in relation to the nearest noise sensitive façade which, at that time, was the flat above Tesco's. There is no planning control over opening hours. Instead, the 'club has the benefit of a Justices On-Licence together with a Special Hours Certificate and a Public Entertainment Licence that presently permit the premises to be used between 10pm - 2am Monday – Thursday, 10pm – 3am Friday – Saturday and 9pm – 12.30am on Sundays. The premises are also licensed to admit 600 persons during these hours.

The kitchen serving the restaurant at 14 Parade occupies a ground floor building attached to the rear elevation. The premises are also owned by the applicant. However, there are no planning controls on noise levels or hours of operation. Lunn Poly House stands to the north of the premises and is currently occupied as offices on the upper floors with retail units on the ground floor. Tesco supermarket stands to the south of 20 Parade and currently operates 24-hour opening Mondays – Saturdays with reduced hours on Sundays.

Details of the Development

The proposals entail the conversion of the upper floors to 16 no. apartments of varying size consisting 8 no. 1-bed flats and 8 no. 2-bed flats. Of these, four of the proposed 1-bed flats would be duplexed within the rear wings of the buildings with spiral staircases installed between the first and second floors. The hallway entrance to the shop unit at 18 Parade would be closed and a new entrance formed within the lobby which would entail re-hanging the entrance door. Access to flats 1,5,9 and 13 at 20 Parade would be via an existing staircase and door opening at the rear of the building. Internally the scheme has been amended to avoid compromising the original size and layout of important rooms on each floor, protecting historic features and decorative features and to satisfy the requirements of the Building Regulations regarding fire safety.

As a consequence, the layout of the flats within the main body of the buildings would be largely open plan with kitchens integrated within lounge/dining areas. Bathroom/WC facilities would be self-contained in pods sited to avoid fireplace and window features. The pods would have lowered ceilings set out below existing picture rails with decorative railings around the perimeter. No external alterations to the buildings are proposed other than re-hanging the entrance door to 18 Parade.

No provision for car parking to serve the flats is proposed within the rear curtilage of the site. The existing parking spaces there would continue to be used for the shops and restaurant at ground floor and basement level.

Assessment

As amended, I am satisfied that the scheme is acceptable in terms of the principle of development and the effect of the conversion works on the fabric, character and appearance of these listed buildings. As such, I consider the main issues raised by these applications relate to car parking and the impact of the development on the neighbouring nightclub premises and future residents amenities in relation to noise.

1. Car Parking

With reference to the Local Plan parking standards provision for 24 spaces would be required to serve the proposed flats at a ratio of 1½ spaces per flat, in accordance with Policy (DW) TR7. However, this policy has now been superseded by more recent advice in PPG: Transport, which introduces maximum standards for development, excluding housing. A report on the implications of the adoption of the Warwickshire Structure Plan in August 2001 upon the operation of the current Local Plan was considered by Members in a report to the meeting on 28 January 2002. This report detailed the policies of the Local Plan that no longer conformed with the adopted Structure Plan. In respect of parking standards the WASP incorporates those set out in PPG13, which supersede those in the Local Plan. Members therefore agreed to follow these standards rather than those in the local plan in accordance with government advice.

One of the principal objectives of PPG13 is to reduce the need to travel, especially by car and the guidance sets out the circumstances where it is appropriate to change the emphasis and priorities in provision between different transport modes, in pursuit of wider Government objectives (para. 5).

At paragraph 6 it advises that in considering planning applications, local authorities should, *inter alia*, accommodate housing principally within existing urban areas, planning for increased intensity of development for both housing and other uses at locations which are highly accessible by public transport, walking and cycling, and to use parking policies, alongside other planning and transport measures, to promote sustainable transport choices and reduce reliance on the car for work and other journeys.

In relation to implementing policies on car parking, local authorities are advised not to require developers to provide more spaces than they themselves wish, other than in exceptional circumstances (para. 51).

PPG3 : Housing also promotes the re-use of previously developed land for housing, including the conversion of existing buildings. In order to promote such conversions local authorities are advised to promote such conversions by taking a more flexible approach to development plan standards with regard to densities, car parking, amenity space and overlooking (para. 41). More specific advice is given at para. 60-62:

“60. *Car parking standards for housing have become increasingly demanding and have been applied too rigidly, often as minimum standards. Developers should not be required to provide more car parking than they or potential occupiers might want, nor to provide off-street parking when there is no need, particularly in urban areas where public transport is available or where there is a demand for car-free housing. Parking policies should be framed with good design in mind, recognising that car ownership varies with income, age, household type, and the type of housing and its location. They should not be expressed as minimum standards.*

61. *Local authorities should revise their parking standards to allow for significantly lower levels of off-street parking provision, particularly for developments:-*
- *in locations, such as town centres, where services are readily accessible by walking, cycling or public transport;*
 - *which provide housing for elderly people, students and single people where the demand for car parking is likely to be less than for family housing; and*
 - *involving the conversion of housing or non-residential buildings where off-street parking is less likely to be successfully designed into the scheme.*
62. *Car parking standards that result, on average, in development with more than 1.5 off-street car parking spaces per dwelling are unlikely to reflect the Government's emphasis on securing sustainable residential environments. Policies which would result in higher levels of off-street parking, especially in urban areas, should not be adopted."*

In addition, the site is located within the defined Town Centre of Leamington Spa and is within 60 metres of a public car park.

I note the concerns of regarding the shortfall of on-site car parking provision in relation to the number of proposed apartments/potential car users. I also recognise the implications of this for highway safety and convenience by increasing demand for on-street parking on streets in the vicinity of the premises, which currently experience problems of congestion. However, no objection to this aspect of the proposals has been raised by the Highway Authority and in light of current government guidance on car parking I do not consider there are sufficient grounds for raising an objection to this aspect of the proposals.

2. Noise

Planning Policy Guidance Note 24: Planning and Noise advises that local planning authorities should consider carefully proposals for new noise sensitive development which would be incompatible with existing activities. The guidance points out that some sites may be subject to night-time noise: *'These sites warrant particular protection: noise-sensitive development should not normally be permitted where high levels of noise will continue throughout the night, especially during the hours when people are normally sleeping (23.00 to 07.00).'*

In the objector's submission reference is also made to the inclusion of Noise Exposure Categories in the guidance and levels of noise which would be acceptable. However, these relate specifically to applications for residential development near transport-related noise sources and so are relevant to the application proposals only in relation to the level of noise from road traffic on Parade and Tavistock Street to the rear. However, Annex 3 does provide detailed guidance on the assessment of noise from different noise sources. In relation to recreational activities, local planning authorities are advised to *'...take into account of how frequently the noise will be generated and how disturbing it will be, and balance the enjoyment of the participants against nuisance to other people.'*

In this case, a noise-sensitive development is proposed to be introduced in proximity to an existing recreational use. However, I consider the advice is still pertinent. The guidance also refers to measures to mitigate the impact of noise and refers to them in detail in Annex 6: *'Insulation of buildings against external noise.'* This annex summarises the main issues to be considered in specifying adequate sound insulation of windows.

In relation to the application proposals, I consider the proposed flats would be exposed to noise from the nightclub and restaurant kitchen, including air conditioning and ventilation units, road traffic and from activities associated with Tesco's 24-hour opening. The proprietor of the nightclub has also raised objection to the proposals on the grounds that the proximity of the proposed flats to the nightclub could result in the imposition of onerous restrictions being placed on the otherwise legitimate operation of the premises if future residents lodged complaints to the Council regarding statutory noise nuisance. Such measures could include directives for further noise insulation works to be undertaken in addition to those already undertaken to comply with the terms of the original permission for the nightclub, which would entail additional expense and disruption to the business and potential harm to the fabric, character and appearance of this Listed Building.

Planning permission for the use of the premises as a nightclub was granted under application W980432, subject to ten conditions of development. Of these, condition 5 states:

"The level of noise from music, voices and entertainment emanating from within the premises, measured 1 metre from the nearest noise sensitive façade(s) shall not exceed the background level by more than 3 dBA."

At this time, the nearest noise sensitive façade was the flat above the Tesco store. The proposed flats would now be nearer to the nightclub than this flat. The proprietor therefore considers it would be unreasonable for this condition to be applied in relation to the proposed flats. Rather, the onus should be on the applicant to provide suitable insulation to the flats to protect residents' amenities. Otherwise, planning permission should be refused.

I concur with this view. Night-time noise level readings have therefore been taken from the application premises in order to assess the impact on future residents' amenities from surrounding noise sources and to establish the measures that would be required to alleviate potential future complaints of statutory noise nuisance. In summary, it has been established that the level of noise from surrounding sources would exceed acceptable levels without the provision of sound insulation to the windows of the proposed flats. The resonance from bass notes in the music being played in the nightclub has also been identified as a particular problem. In response, the Divisional Environmental Health Officer has commented as follows:

"With reference to the redevelopment of the above premises I would advise as below with regard to the noise insulation issue.

If planning permission is to be granted a condition should be imposed requiring the submission of a scheme which will satisfy the following criteria: -

The level of noise inside habitable rooms shall be no higher than 30 dBA when measured as a night-time Leq (11pm-7am). Daytime (7am-11pm) Leqs shall not exceed 35 dB. The LAmax (fast) shall not exceed 45 dB at during the day or night. Special consideration should be given to frequencies in the 1/3rd Octave centre frequency ranges 50; 63; 80 and 100 Hz to ensure that adequate protection is afforded. "

In the event that members grant planning permission, I consider it would be appropriate to apply the recommended condition to address these issues. In addition, I consider large scale architectural details should also be submitted in order to ensure a satisfactory standard of design, treatment and appearance for these Grade II* Listed Buildings is achieved. The Divisional Environmental Health Officer has also advised that acoustically treated mechanical ventilation should be provided to each habitable room. I therefore consider it would also be appropriate for large scale details to be provided for similar reasons.

Night-time noise level readings were also taken from the flat above the Tesco store for comparison purposes, which indicate that noise from music being played within the premises exceeds the limits set by condition 5. As such, this constitutes a material breach of planning control. The Divisional Environmental Health Officer is pursuing appropriate remedial measures with the proprietor as a separate matter in order to secure compliance with the terms of this condition and relevant licences.

For the above reasons, I consider the proposals represent an acceptable form of development that would comply with the relevant policies of the Development Plan and advice contained within pertinent Planning Policy Guidance Notes.

RECOMMENDATION

That Planning Permission and Listed Building Consent be GRANTED, as amended, subject to conditions on noise insulation, large scale architectural details and materials.

REASON FOR RECOMMENDATION

The proposal is considered to satisfy the objectives of Policies (DW) ENV3, 6, 8 11, 12 and 15 and (LTC) H3 of the Warwick District Local Plan 1995 and Policy GD4 of the Warwickshire Structure Plan.