

Planning Committee: 15 August 2017

Item Number: 7

Application No: [W 17 / 0755](#)

Town/Parish Council: Leamington Spa
Case Officer: Emma Spandley

Registration Date: 01/06/17
Expiry Date: 27/07/17

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Change of use of the first and second floors to a HMO (Use Class C4).
(Retrospective) FOR Citycorp Holdings LTD

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

RECOMMENDATION

Planning Committee are recommended to GRANT planning permission subject to the conditions listed below.

DETAILS OF THE DEVELOPMENT

The application seeks to regularise a change of use of the first and second floors of the application property to a HMO (Use Class C4). The main difference between the previous application and the current application is the existence of an internal bin store.

THE SITE AND ITS LOCATION

The application property is located within the heart of Leamington Spa Town Centre, on a busy main thoroughfare and within a predominately commercial area of the town. Warwick Street consists of commercial premises at ground floor with the first floor being a mixture of residential, commercial and office space. The site is also within the Royal Leamington Spa Conservation Area.

PLANNING HISTORY

In 1974, planning permission was granted for change of use from a bakery to a restaurant which relates to No.97. However, there are no planning applications relating to the application site No.97a.

W/15/0027 & W/15/1632 Change of use of the first and second floors to a HMO (Use Class C4). (Retrospective), Refused 23rd March 2015 & 9th December 2015. For the following reasons:-

"The proposed development provides for the use of the application property as a 6 bedroomed house in multiple occupation in respect of which insufficient provision is made for the external storage of refuse containers resulting in either the accumulation of waste material (including putrescible waste) within the

property itself or on the public highway to the detriment of the residential amenities of the occupants of the application property; the occupiers of nearby properties and users of the public highway.

The proposal is therefore contrary to the National Planning Policy Framework and to the following Development Plan policies:

The Warwick District Local Plan 1996 -2011

- Policy DP2: Amenity

The Emerging Warwick District Local Plan 2011 - 2029

- Policy BE3: Amenity
- Policy H6: Houses in Multiple Occupation and Student Accommodation"

RELEVANT POLICIES

- National Planning Policy Framework

The Current Local Plan

- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP8 - Parking (Warwick District Local Plan 1996 - 2011)
- DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)
- DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)

The Emerging Local Plan

- BE1 - Layout and Design (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- BE3 - Amenity (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TR4 - Parking (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- CC2 - Planning for Renewable Energy and Low Carbon Generation (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- HE2 - Protection of Conservation Areas (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)

Guidance Documents

- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Vehicle Parking Standards (Supplementary Planning Document)

SUMMARY OF REPRESENTATIONS

Leamington Spa Town Council - object to this application on the following grounds:

1. Inadequate waste storage facilities leading to potential adverse impact on the amenity of residents and nearby users. This is contrary to section e) of policy H6 of the draft Local Plan.
2. The potential impact of traffic noise and the rear windows of the property overlooking the restaurant's ventilation system on residents as raised in the previous application W/15/1632 remain unaddressed.
3. Lack of any parking provision attached to this site leading to inevitable extra demand on surrounding on-street parking. Stopping residents of this property having parking permits simply moves the problem into nearby streets.

After further information was supplied to the Town Council with regards to the bin store, the Town Council still wish for their objection to remain in respect of points 1 & 3 above, together with the observation below.

The Town Council would also like to make the following observation:

Policy H6 of the draft Local Plan regarding not having more than 10% of properties within a 100m radius being HMOs is breached in this case. The town council acknowledges the application meets the exception in part a) of policy H6 but hopes that permission would not be given automatically in all such cases just by the fact that this exception exists.

Private Sector Housing: No objections

Environmental Health: No objections subject to conditions

Open Space: No objections subject to a contribution.

Waste Management: No objection.

ASSESSMENT

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

- Whether the proposals would cause or add to a harmful over-concentration of student accommodation in this area;
- The amenities of the occupiers of the HMO;
- Car parking and highway safety;
- Renewable energy / reduction in carbon footprint.

Whether the proposals would cause a harmful over-concentration of student accommodation in this area

Policy H6 of the Draft Local Plan 2011-2029 states planning permission will only be granted for Houses in Multiple Occupation where:-

- a) the proportion of dwelling units in multiple occupation (including the proposal) within a 100 metre radius of the application site does not exceed 10% of total dwelling units;
- b) the application site is within 400 metres walking distance of a bus stop;
- c) the proposal does not result in a non-HMO dwelling being sandwiched between 2 HMO's;
- d) the proposal does not lead to a continuous frontage of 3 or more HMOs; and
- e) adequate provision is made for the storage of refuse containers whereby - 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.

However, the policy identifies that exceptions may be made in the circumstances where the location of the HMO is on a main through fare, in a mixed use area where the proposal would not lead to an increase in activity along nearby residential streets. There is also a potential exception to e) if alternative arrangements for the storage and movement of containers are agreed in writing by the Councils Contract Services section (Waste).

Assessment

The application property is located within the heart of Leamington Spa Town Centre, on a busy main thoroughfare and within a predominately commercial area of the town. Warwick Street consists of commercial premises at ground floor with the first floor a mixture of residential, commercial and office space.

Within a 100 metre radius there are 22 HMOs; 5 along Oxford Street, which is predominately residential towards Guy Place East, and the remaining ones located above the commercial premises along Warwick Street. Due to the small amount of residential properties within the 100 metre radius the 10% threshold is breached. However, as stated above, there is an exception to a) where the proposal is located on a main thoroughfare and located within a mixed use area.

In accordance with the consideration of the previous proposal, it is considered that as the property is located within a predominately commercial area on a main thoroughfare within the town centre, whilst there is a breach of the policy in respect of the concentration of HMOs, in the particular circumstances of this application there would be insufficient harm to sustain an objection on that ground.

The previous proposal was refused by reason of inadequate provision for waste storage which has now been addressed through the provision of an internal bin store in consultation with the Council's Waste Management team who looked at at the capacity of waste typically generated by 6 persons. The store was also designed to meet fire resistance standards.

Whilst internal bin stores are never a preferred option in HMOs, because the onus is on the occupiers to keep the bin store clean and tidy, Private Sector Housing issued a HMO Licence, with the ability to review the bin storage arrangements if any complaints were raised with regards to the effectiveness of the bin store. Private Sector Housing have not received any complaints regarding the internal bin store. Taking all of the above into account, it is considered that due to the site's particular circumstances; the lack of complaints

and the store being designed to meet fire resistance standards, in this instance the internal bin store provides an acceptable waste disposal area, which will not place an unrealistic burden on the occupiers to walk the rubbish around the block to the rear of the site to deposit the rubbish.

The Amenities of the occupiers of the HMO

Noise From Restaurant Ventilation System

The rear bedrooms overlook the flat roof on which the restaurant's ventilation system is located. There is potential for residents to be adversely affected by noise through the open window or the glass of the single glazed windows. The Environmental Health Officer recommends that suitable double glazing is provided with sound proof vents to prevent the noise of the restaurant ventilation system intruding into the bedrooms, this can be controlled by a suitably worded condition. The Environmental Health Officer has requested that a condition is imposed on any grant of permission which requires a noise survey to be conducted which would then set the specification that is required for the double glazing to prevent noise from the street and restaurant intruding into the bedrooms.

Noise From Front Street/Restaurant Entrance

The front bedrooms overlook the busy street on which is situated the restaurant entrance and other venues which are open late. There is potential for residents to be adversely affected by noise through the open window or the glass of the single glazed windows. As above, the Environmental Health Officer recommends that suitable double glazing is provided with sound proof vents to prevent the noise of the restaurant ventilation system intruding into the bedrooms. This can be controlled by a suitably worded condition. The Environmental Health Officer has requested that a condition is imposed on any grant of permission which requires a noise survey to be conducted which would then set the specification that is required for the double glazing to prevent noise from the street and restaurant intruding into the bedrooms.

Noise through floor /ceiling from Restaurant Below

The restaurant and kitchen were cooking/serving lunch at the time of the EHO's visit. There was no apparent noise through the building. However, should the current or future restaurant operator wish to offer late night entertainment the floor/ceiling will need to be assessed for sound insulation at that time.

Odour From Restaurant Below

The rear windows overlook the extraction ventilation system. There was no apparent odour in the HMO at the time of my visit. Should this become an issue there appears to be plenty of space to carry out any necessary modifications to the restaurant ventilation system.

These issues were considered at the time of the previous application and were not assessed as being unacceptable.

Car parking and highway safety

The previous use of the property was a 3 bedroomed flat, which requires 2 off road parking spaces. The HMO use also requires 2 parking spaces and there is no off road parking allocated to the property. Taking into account the sustainable location of the site within the commercial core of the town centre and within easy reach of a wide range of shops, services and public transport, and considering the fact that there are parking controls on surrounding streets it was not considered that a refusal could be justified on grounds of parking, due to the fact there will be no net increase in the off road parking requirement.

Open space

The additional residents brought into the area by this application will increase the demand upon existing open space, both in the locality and the wider district in relation to destination parks which is proposed to be addressed through the use of an appropriately worded condition.

Summary/Conclusion

Following the bringing forward of an appropriate waste management solution, it is considered that the previous reason for refusal has been overcome and it is therefore recommended that planning permission be granted.

CONDITIONS

- 1 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan submitted on 26th April 2017 and approved drawings 170020 FP, and specification contained therein, submitted on 1st June 2017. **REASON:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.

- 2 The development hereby permitted shall proceed only in strict accordance with the recommendations of a noise assessment, which shall be submitted in accordance with the principles of PPG24 'Planning & Noise'. The noise assessment shall include results for LAeq, LA10, and LA90 noise descriptors, together with a calculated arithmetical average for the LAeq. The assessment will demonstrate by calculation that internal noise levels for the proposed residential property meet the 'Good' criteria set out in British Standard 8233 'Sound Insulation and Noise Reduction for Buildings' together with any mitigation measures that are required to achieve this. The report shall also demonstrate that outdoor garden and leisure areas associated with this development meet the 55dB limit as required by the World Health Organisation (WHO). **The survey shall be submitted within 3 months of the decision date. Any necessary mitigation measures shall have been implemented in full accordance with the recommendations of**

the noise assessment within 3 months of the approval of this condition and thereafter shall not be removed or altered in any way without the prior written approval of the local planning authority. REASON: To ensure that the premises are not used in a manner prejudicial to or likely to cause nuisance or disturbance to the occupiers of nearby properties in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011.

- 3 Unless the Local Planning Authority certifies that suitable alternative provision has been made for the provision or improvement of open space within the catchment area of the application site in accordance with Policy SC13 of the Warwick District Local Plan 1996-2011:

(i) no development shall commence unless or until a scheme for such provision or improvement (identifying the size/extent, location and specification of the space and works) has been submitted to and approved in writing by the Local Planning Authority; and

(ii) the dwellings hereby permitted shall not be occupied until the scheme so approved has been implemented.

REASON: To ensure the necessary infrastructure and facilities are provided in accordance with Policy SC13 of the Warwick District Plan 1996 – 2011.
