

Application No: W 11 / 1624

Town/Parish Council: Leamington Spa
Case Officer: Rob Young

Registration Date: 13/12/11

Expiry Date: 07/02/12

01926 456535 planning_east@warwickdc.gov.uk

131-137 Regent Street and 40 Kenilworth Street, Leamington Spa, CV32 4NX

Demolition of rear portion of existing retail unit; division of existing retail unit into 4 no. retail units and erection of single storey rear extension; installation of new shopfronts; and erection of 2 no. two storey houses and a three storey block of 4 flats. FOR Midland Assured Ltd

This application is being presented to Committee due to an objection from the Town Council having been received and because it is recommended that planning permission be granted subject to the completion of a legal agreement.

SUMMARY OF REPRESENTATIONS

Town Council: Object. Although the Council is in favour of town centre development with some parking provision, this proposed development is being built on land originally designated as parking spaces for adjacent student accommodation so compromising the parking provision for both developments.

Conservation Area Advisory Forum: Generally this was felt to be an improvement on the previous approval. It was felt that the Kenilworth Street elevation would need very careful detailing and that the entrance arch should have a shallow arched head. It was felt that the semi-detached houses should have chimneys or gabled parapets to add interest at roof level.

Severn Trent Water: No objection, subject to a condition requiring drainage details.

WCC Highways: Initially objected to the application on the grounds of the substandard width of some of the parking spaces. However, following the receipt of amended plans no objection is raised, subject to conditions.

WCC Ecology: The flat roofed building to be demolished would have negligible, if any, opportunities for bats, so I do not have any concerns with this being demolished.

WDC Environmental Health: No objection.

WDC Waste Management: No objection.

WDC Greenspace Development Manager: I recommend applying the Open Space SPD to this planning application for an off-site capital contribution. The address for the planning application site has several green spaces within a 500m accessibility threshold that could be considered local green spaces and strategic greenspace. These include Welches Meadow, Crabtree Meadow, Pump Room

Gardens and Christchurch Gardens. In the most recent quality assessment of these sites they scored average or below the Warwick District Average for quality. Some of these green spaces have development plans for enhancements and require further funding. Additionally Jephson Gardens and Mill Gardens are also in close proximity, and even though the Gardens are of high quality, there are still development plans to improve the Gardens further. An off-site contribution will support the improvements to any one of these sites. It is intended that these improvements would be complete within the next 5 years, and therefore when the contribution will be spent.

WDC Conservation: This proposal is for flats and two residential units on land formerly occupied by part of the retail premises in Warwick Street and currently unoccupied but formerly used as a seating out space for the Sozzled Sausage Public House. This site has been the subject of a previous application for student accommodation which has not been implemented. In terms of the removal of part of the rear wing of retail units 1-4, and the replacement with two residential units, this area originally was treated as a new rear wing to the existing premises. In terms of the design, it would appear that a linear approach has been taken to try and recreate a form of rear wing projecting from the back of the existing premises, without actually connecting on to them. No elevation is given of the rear of the existing premises and therefore it is not possible to ascertain the full impact of the new gable adjacent to the rear wall which does contain new windows (as approved under a previous application). There is an element of interest created by the wings being staggered and also this does give the opportunity for the front door of one property to be within the inset. Generally a simple approach is the best for this type of location in order to create the effect of a rear wing of a principal building. In terms of detailing, I consider the two eyebrow dormers on unit no. 4 to be unnecessary. In this context it would be more appropriate to let the window head terminate at the eaves, with the soldier arches expressed only on the section of roof at a higher level. If there is a view of the rear gable (shown as south elevation on the drawing), from first floor windows of the existing properties, it may be more appropriate to create some blind window openings at first floor level to break the rather large wide gable. It would also assist to reduce the width of the gable by foreshortening the toilet element of unit 5 with a slight step in the building at this point. In terms of the building on to Kenilworth Street, this is a much larger development and has been designed in a similar way to the three storey student accommodation previously occupying the site. I would like to compare the two drawings as significant time was spent on achieving an appropriate building for this location. I note that a number of features have been copied from the public house on the corner. In terms of the elevation of Kenilworth Street, consents have been given for increasing the scale further up the street and therefore a three storey building is appropriate in this location. It may be more appropriate to consider omitting the angled window heads unless these are a feature copied from the public house; I do not consider they are necessary in this location. In terms of the treatment of the rear elevation, this will largely only be seen from the courtyard, however a rather monolithic elevation has been created by conjoining the arched access with the main elevation, which is broken down on the front elevation. It would be more appropriate to break the elevation at this point in a similar way to the frontage and therefore give a more attractive view from the rear courtyard and from the two residential units. Large scale details of window eaves treatment and door case would need to be conditioned.

RELEVANT POLICIES

- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP6 - Access (Warwick District Local Plan 1996 - 2011)
- DP8 - Parking (Warwick District Local Plan 1996 - 2011)
- DP11 - Drainage (Warwick District Local Plan 1996 - 2011)
- DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)
- SC13 - Open Space and Recreation Improvements (Warwick District Local Plan 1996 - 2011)
- UAP1 - Directing New Housing (Warwick District Local Plan 1996 - 2011)
- TCP13 - Design of Shopfronts (Warwick District Local Plan 1996 - 2011)
- DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)
- DAP9 - Unlisted Buildings in Conservation Areas (Warwick District Local Plan 1996 - 2011)
- Design Advice on Shopfronts & Advertisements in Royal Leamington Spa (Supplementary Planning Guidance).
- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Open Space (Supplementary Planning Document - June 2009)
- Residential Design Guide (Supplementary Planning Guidance - April 2008)
- The 45 Degree Guideline (Supplementary Planning Guidance)
- Distance Separation (Supplementary Planning Guidance)
- TCP2 - Directing Retail Development (Warwick District Local Plan 1996 - 2011)
- Vehicle Parking Standards (Supplementary Planning Document)

PLANNING HISTORY

In 2006, planning permission was granted for "Refurbishment and part demolition of existing buildings together with extensions and a new building to provide a retail unit (Class A1), a restaurant (Class A3), a bar/grill and outdoor area (Class A4) and 9 no. studio, 1 and 2 bedroom apartments" (Ref. W06/0638). This permission was not implemented and has now lapsed.

In 2008 planning permission was granted for "Installation of new shopfronts and erection of single storey rear extension" (Ref. W08/0205).

In 2010 planning permission was granted for "Change of use of first and second floor offices to student residential accommodation and alterations to elevations including the installation of new and replacement windows" (Ref. W10/0109).

In 2010 planning permission was granted for "Change of use of 2 units from retail (Use Class A1) to hot food takeaways (Use Class A5); and installation of extraction flue encased in brickwork to rear" (Ref. W10/1032).

In 2011 planning permission was granted for "Demolition of rear portion of existing retail unit; division of existing retail unit into 4 no. retail units and erection of single storey rear extension; installation of new shopfronts; construction of 2.5 storey residential block to rear of shops for student accommodation; construction of 3 storey residential block fronting Kenilworth Street for student accommodation; and alteration to existing vehicular access" (Ref. W10/0942).

KEY ISSUES

The Site and its Location

The application relates to Nos. 131-137 Regent Street together with the associated yard to the rear and the cleared site of the building that formerly stood at No. 40 Kenilworth Street. The site is L-shaped and wraps around the side and rear of the adjoining premises at Nos. 139 & 141 Regent Street. The site has a frontage to Kenilworth Street.

The site is within Leamington Town Centre and the Leamington Spa Conservation Area. Part of the site is within an area designated as a secondary retail area in the Local Plan (i.e. the buildings at Nos. 131-137 Regent Street and the yard to the rear). The remaining part of the site (i.e. the site of No. 40 Kenilworth Street) is not allocated for any particular purpose in the Local Plan. The surrounding area is predominantly commercial although there are flats above some of the surrounding properties. The upper floors of Nos. 131-137 Regent Street have recently been converted into student accommodation.

The site is bounded by the rear boundary walls of Nos. 39-49 Park Street to the west. Those buildings are predominantly in commercial use, but some of the upper floors are occupied as self-contained flats with windows overlooking the application site. Regent Street and the rear elevation of the shop at No. 139 Regent Street and the Sozzled Sausage Public House form the southern boundary of the site. The northern boundary of the site adjoins the car park of the Dixons retail premises. The Angel Hotel is situated on the opposite side of Kenilworth Street, and there are residential properties further to the north on Kenilworth Street.

Details of the Development

The application proposes the following development:

- demolition of rear portion of existing retail unit;
- division of existing retail unit into 4 no. retail units and erection of single storey rear extension;
- installation of new shopfronts; and
- erection of 2 no. two storey houses and a three storey block of 4 flats.

The following amendments have been made to the application:

- steps removed from access route to bin stores;
- car parking spaces amended to provide an increased width for those spaces against a wall or boundary;
- number of parking spaces reduced from 7 to 6 to enable adequate widths;
- confirmation of agreement to enter into a Section 106 agreement to waive the rights of future occupants to apply for resident's parking permits;
- bedroom window added to south elevation of bedroom 1 in Unit 6;
- confirmation of agreement that a contribution of £8,792 will be made towards the provision or enhancement of public open space;
- confirmation of agreement that a contribution of £2,376 will be made towards the provision of increased policing infrastructure;
- additional window and dummy windows added to the south elevation of Unit 6 to add interest to this elevation;
- obscure glazed window added to north elevation of Unit 5;

- two eyebrow dormers omitted from Block A;
- pillar to side of entrance archway increased in width;
- angled window heads omitted from front elevation of Block B;
- rear elevation of Block B broken up with a large hopper and downpipe adjacent to the archway;
- previously approved extensions and enhancements to retail units added to application to enable these to be conditioned;
- bottom half of first floor windows in rear elevation of Block A shown to be obscure glazed and non-opening;
- rooflights added to rear roofslope of Block A;
- bottom half of first and second floor windows in rear elevation of Units 1, 3 & 4 shown to be obscure glazed and non-opening;
- confirmation that all new hard surfaces will be constructed of porous materials; and
- access gate added to garden of Unit 6.

Assessment

The main issues relevant to the consideration of this application are as follows:

- the principle of permitting residential development on this site;
- the loss of retail floorspace;
- the impact on the living conditions of neighbouring dwellings;
- the living conditions of future occupants of the proposed development;
- the impact on the character and appearance of the Conservation Area; and
- car parking and highway safety.

The principle of permitting student accommodation on this site

The application site comprises previously developed land within the urban area and therefore a residential development would be in accordance with Local Plan Policy UAP1. Therefore I am satisfied that the proposals would be acceptable in principle, subject to the following assessment against Local Plan Policy TCP2.

Loss of retail floorspace

The proposals would involve the demolition of the rear part of the retail unit at No. 137 Regent Street. Local Plan Policy TCP2 seeks to resist the loss of retail floorspace within the designated retail areas in the town centre. In response to this policy, the applicant has advised that the premises have been vacant since 2005 and they have provided details of the marketing of the premises since that time. The applicant's surveyor has advised that it is unlikely that a retail occupier will be found for the whole or a significant part of the retail floorspace in the near future and has recommended that, given the strong interest that they have from smaller occupiers, the applicant should proceed with a scheme to provide 4 smaller lock-up shops. The application provides for extensions to the shops to provide toilets, together with the provision of new shopfronts and bin stores. If these enhancements are provided, and the units are fitted out to a shell specification in accordance with the recommendations of the applicant's

surveyor, I am satisfied that the proposals would not harm the vitality and retail viability of this part of the town centre. In reaching this conclusion, I am conscious of the fact that the application premises have been vacant for over 6 years and are located in a peripheral location at the edge of the retail area. I also note that No. 137 is currently significantly larger than most of the other retail units in this part of Regent Street. The loss of this retail floorspace was previously approved when planning permission was granted for a student development on this site in 2011.

Impact on the living conditions of neighbouring dwellings

There would be a close relationship between the adjacent dwellings in Park Street and the western elevation of Block A, with a separation distance of only approximately 13.5m between facing windows. However, the Council's Distance Separation Standards state that they will not be directly applied in Conservation Areas. Furthermore, in order to limit the impact on the properties in Park Street, the lower half of the first floor windows are proposed to be obscure glazed and non-opening. I am satisfied that these measures will ensure that the proposals do not cause unacceptable loss of privacy for nearby dwellings. Furthermore, I am satisfied that the proposals would be set far enough away from neighbouring dwellings to ensure that they would not cause undue loss of light or outlook for those dwellings. In conclusion on this issue, I consider that the relationship between neighbouring dwellings and the proposed development would be appropriate for this high density location within the Conservation Area. A similar impact on neighbouring dwellings was approved when planning permission was granted for a student development on this site in 2011.

Living conditions of future occupants of the proposed development

The amendment to show the bottom half of the first and second floor windows in the rear elevation of Units 1, 3 and 4 to be obscure glazed and non-opening will ensure that an adequate degree of privacy is maintained between the dwellings within the proposed development. I am satisfied that the proposed development would have an acceptable relationship with the developments that have recently been approved in the existing buildings at Nos. 131-137 Regent Street (i.e. the conversion of the upper floors to 16 student bedrooms and the change of use of two of the ground floor units to hot food takeaways). The windows in the south elevation of Unit 6 would face onto blank parts of the rear elevation of Nos. 131-137.

Impact on the character and appearance of the Conservation Area

As amended, I am satisfied that the proposals would preserve, and indeed in my opinion enhance, the character and appearance of the Conservation Area. The amendments have been discussed with the Council's Conservation Architect and he now has no objection to the proposals. The design and form of the proposals would now be in keeping with the Conservation Area.

I note that CAAF have suggested certain detailed amendments to the design. These suggested amendments have been raised with the applicant but have not been incorporated into the final amended design. In consultation with the Council's Conservation Architect, I am satisfied that the design changes that have been incorporated into the scheme are sufficient to ensure that the proposals would preserve the character and appearance of the Conservation Area.

Car parking and highway safety

The proposed car parking layout has been amended to address concerns that were raised by the Highway Authority. The Highway Authority are satisfied that the amended development and parking provision would not be detrimental to highway safety. Conditions are recommended in accordance with the comments of the Highway Authority.

The Council's Parking Standards would require 10 parking spaces for the proposed dwellings but only 6 are shown on the proposed plans. However, the Parking Standards allow for residential parking below the standard where the site is located within a resident's parking zone and a Section 106 agreement is put in place to waive the residents' rights to parking permits. In this case, the applicant has agreed to enter into a Section 106 agreement to secure such a restriction. Furthermore, I note that the plans show covered cycle parking for 6 cycles (in addition to the cycle parking already approved for the conversion of the existing buildings at Nos. 131-137). Therefore, 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, I do not consider that a refusal could be justified on grounds of parking.

I note the comments of the Town Council regarding the impact on the parking provision for the existing student accommodation at Nos. 131-137 Regent Street. However, that development related to the conversion of the existing buildings and did not include any car parking provision. As previously stated, the cycle parking provision for the existing student accommodation would be maintained.

Other matters

The proposed bin storage arrangements have been accepted by the Council's Waste Management team.

The Council's Open Space Supplementary Planning Document would require a contribution of £8,792 towards the provision or enhancement of public open space. The applicant has agreed to enter into a Section 106 agreement to secure this contribution.

The Police have requested a contribution of £2,376 towards the provision of increased police infrastructure. The applicant has agreed to enter into a Section 106 agreement to secure this contribution.

The application proposes the installation of air source heat pumps to meet 10% of the predicted energy requirements of the development, in accordance with Local Plan Policy DP13.

RECOMMENDATION

GRANT, subject to the conditions listed below and a Section 106 agreement to secure the following:

(a) a contribution of £8,792 towards the provision or enhancement of public open space;

- (b) a contribution of £2,376 towards the provision of increased police infrastructure; and
- (c) to waive the rights of occupants of the development to apply for resident's parking permits.

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(s) 2661-400D, 2661-401D, 2661-402E, 2661-404, 2661-405, 2661-406, & 2661-206A, and specification contained therein, submitted on 12 December 2011, 20 December 2011, 1 February 2012 & 15 February 2012, 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 Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.
- 3 No development shall be carried out on the site which is the subject of this permission, until large scale details of doors, windows (including a section showing the window reveal, heads and cill details), eaves, verges, rainwater goods, gates, the door case, archway and the shopfronts at a scale of 1:5 (including details of materials) have been submitted to and approved by the District Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details. **REASON** : For the avoidance of doubt, and to ensure an appropriate standard of design and appearance within the Conservation Area, and to satisfy Policy DAP8 of the Warwick District Local Plan 1996-2011.
- 4 None of the dwellings hereby permitted shall be first occupied unless and until:
(a) details of a scheme for the extension, provision of toilets, provision of new shopfronts and fitting out to a shell specification of the retail units numbered 1-4 on the approved plans have been submitted to and approved in writing by the District Planning Authority; and
(b) the scheme approved under (a) has been completed in strict accordance with approved details.
REASON : As the proposals include the demolition of retail floorspace, these works are necessary to ensure that the proposals preserve the vitality and retail viability of this part of the town centre, in accordance with Policy TCP2 of the Warwick District Local Plan.
- 5 Samples of all external facing materials to be used for the construction of the development hereby permitted, shall be submitted to and approved by the District Planning Authority before any constructional works are commenced. Development shall be carried out in accordance with the approved details. **REASON** : To ensure that the visual amenities of the area are protected, and to satisfy the requirements of

- 6 Details of the means of disposal of storm water and foul sewage from the development shall be submitted to and approved by the District Planning Authority before the development hereby permitted is commenced and the development shall not be carried out other than in strict accordance with such approved details. **REASON** : To ensure satisfactory provision is made for the disposal of storm water and foul sewage and to satisfy Policies DP9 and DP11 of the Warwick District Local Plan 1996-2011.
- 7 The development hereby permitted shall not commence until space has been provided within the site for the parking/loading/unloading of vehicles in accordance with details to be approved in writing by the District Planning Authority. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy DP6 of the Warwick District Local Plan 1996-2011.
- 8 No development shall commence unless and until a vehicular access has been provided to the site not be less than 5 metres wide for a distance of at least 7.5 metres into the site, as measured from the near edge of the public highway carriageway. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy DP6 of the Warwick District Local Plan 1996-2011.
- 9 The vehicular access to the site shall not be used in connection with the development hereby permitted unless and until it has been surfaced with a suitable bound material for a distance of 7.5m into the site as measured from the near edge of the public highway carriageway, in accordance with details that shall have been submitted to and approved in writing by the District Planning Authority. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy DP6 of the Warwick District Local Plan 1996-2011.
- 10 The access to the site for vehicles shall not be used in connection with the development hereby permitted unless a public highway footway crossing has been laid out and constructed in accordance with the standard specification of the Highway Authority. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy DP6 of the Warwick District Local Plan 1996-2011.
- 11 Gates provided at the entrance to the site shall not be hung so as to open to within 7.5 metres of the near edge of the public highway carriageway. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy DP6 of the Warwick District Local Plan 1996-2011.
- 12 The development hereby permitted shall not be brought into use unless there is available vehicular turning space within the site so as to enable the largest vehicle anticipated on site to enter and leave the public highway in a forward gear. Such area shall thereafter be kept available for that purpose. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy DP6 of the Warwick District Local Plan 1996-2011.

- 13 The car parking spaces shown on the approved plans shall be allocated to specific dwellings and shall not be offered on a first-come, first-served basis. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy DP6 of the Warwick District Local Plan 1996-2011.
- 14 The vehicular access for the development hereby permitted shall not be constructed in such a manner as to reduce the effective capacity of any highway drain or ditch. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy DP6 of the Warwick District Local Plan 1996-2011.
- 15 The proposed car parking area for the development hereby permitted shall be constructed, surfaced, laid out and available for use prior to the first occupation of the development hereby permitted, in full accordance with the approved plan. The car parking area shall be retained at all times thereafter and shall be kept free of obstruction and be available for parking for occupants of the development hereby permitted, unless agreed otherwise in writing by the District Planning Authority. **REASON** : To ensure that adequate parking facilities are available, in accordance with the requirements of Policy DP8 of the Warwick District Local Plan 1996-2011.
- 16 The cycle parking provision shown on the approved plans shall be completed before any of the dwellings hereby permitted are first occupied and thereafter shall be kept free of obstruction and be available at all times for the parking of cycles associated with the development, unless otherwise agreed in writing by the Local Planning Authority. **REASON** : To ensure that there are adequate cycle parking facilities to serve the development, in accordance with the requirements of Policy DP8 of the Warwick District Local Plan 1996-2011.
- 17 All window and door frames and the new shopfronts shall be constructed in timber and shall be painted and not stained. **REASON** : To ensure an appropriate standard of design and appearance within the Conservation Area, and to satisfy Policy DAP8 of the Warwick District Local Plan 1996-2011.
- 18 All rainwater goods for the development hereby permitted shall be metal. **REASON** : To ensure an appropriate standard of design and appearance within the Conservation Area, and to satisfy Policy DAP8 of the Warwick District Local Plan 1996-2011.
- 19 The roofing material for the development shall be natural slate. **REASON** : To ensure an appropriate standard of design and appearance within the Conservation Area, and to satisfy Policy DAP8 of the Warwick District Local Plan 1996-2011.
- 20 None of the dwellings hereby permitted shall be occupied unless and until the bin stores have been provided in strict accordance with the approved plans. **REASON** : To protect the amenities of occupiers of the site and the character and appearance of the locality, in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.

- 21 The development hereby permitted shall not be first occupied unless and until the renewable energy scheme submitted as part of the application has been wholly implemented in strict accordance with the approved details. The works within this scheme shall be retained at all times thereafter and shall be maintained strictly in accordance with manufacturers specifications. **REASON** : To ensure that adequate provision is made for the generation of energy from renewable energy resources in accordance with the provisions of Policy DP13 in the Warwick District Local Plan 1996-2011.
- 22 All hard surfaces hereby approved shall be made of porous materials. **REASON** : To reduce surface water run-off and to ensure that the development does not increase the risk of flooding elsewhere, in accordance with Policy DP11 of the Warwick District Local Plan.
- 23 Prior to the occupation of the development hereby permitted, the following windows shall be permanently glazed with obscured glass to a degree sufficient to conceal or hide the features of all physical objects from view and shall be non-opening:
- (a) the bottom half of the first floor windows in the west facing elevation of Units 5 & 6;
 - (b) the bottom half of the first and second floor windows in the west facing elevation of Units 1, 3 & 4; and
 - (c) the whole of the first floor window in the north elevation of Unit 5.

The obscured glazed windows shall be retained and maintained in that condition at all times.

REASON : To protect the privacy of users and occupiers of nearby properties and the privacy of future users and occupiers of the development hereby permitted and to satisfy the requirements of Policy DP2 of the Warwick District Local Plan 1996-2011.

INFORMATIVES

For the purposes of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, the following reason(s) for the Council's decision are summarised below:

In the opinion of the District Planning Authority, the development would not cause unacceptable harm to the architectural and historic character of the Conservation Area within which the site is located. Furthermore, the proposal would not adversely affect the amenity of nearby residents and would be acceptable in terms of highway safety. The proposal is therefore considered to comply with the policies listed.
