

**Planning Committee:** 09 December 2003  
**Application No:** W20031571 /1573CA

**Principal Item Number:** 6

**Town/Parish Council:** Leamington Spa

**Registration Date:** 06/10/2003  
**Expiry Date:** 01/12/2003

**Case Officer:** Alan Coleman  
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**26 Binswood Avenue, Leamington Spa, CV325SQ**

Removal of existing prefabricated concrete garage and adjacent garden wall. Erection of new garage with private graphics studio.

FOR Mr P Tolley

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**SUMMARY OF REPRESENTATIONS**

Town Council: *"The Council considers the application to represent a betterment of the present site arrangements. Subject to the application conforming with conditions appropriate to the Conservation Area, no objection."*

CAAF: *"Concern was expressed that the building was still too large, even though it is now single storey. It was, however, pointed out that the building did now fulfil the previous requirement to provide all single storey accommodation. Concern was expressed that the studio could be used for residential purposes when the present use ceased. There were mixed views on this particular application."*

WDC (Leisure & Amenities): *"I have concerns about the proximity of the proposed structure to a number of retained trees. The distance shown from the stem of the lime tree closest to the street to the edge of the building is around 2.5m. Additionally, the plans as existing indicate the crown radius of this tree is 3.5m, where as it is actually nearer to 6m. This tree is street edge and a prominent on Trinity Street."*

*The lime is a mature tree with a diameter of approximately 60cm. Trenching within 2.5m of this tree will potentially leave it with insecure root hold and with insufficient roots for healthy growth. The recommendation of BS5837:1991 for a tree of this size and age is that no excavation should take place within 6m of the stem. Given that this part of the structure will be a garage and relatively lightly loaded it may be possible to implement the scheme without undue damage to the tree by using a precast concrete floor slab suspended on min-piles and beams to minimize the necessity to excavate under the tree canopy."*

*The ash tree just to the rear of the proposal presents similar but lesser concerns. Its significance in the street scene is less and it is a younger, smaller tree more able to withstand the changes. BS5837:1991 would require no excavation within 3m of such a tree."*

Neighbours: The residents of 28, 30 and 32 Binswood Avenue object on the grounds that the depth, height and roof design of the building remains disproportionate for the site/surrounding area and its scale, mass and proximity to neighbouring gardens would detract from residents' amenities.

## **RELEVANT POLICIES**

The development plan for the area comprises the Warwickshire Structure Plan 1996-2011 (adopted 20 August 2001) and the Warwick District Local Plan (adopted 27 April 1995).

Policy GD4 of the Structure Plan expects local plans to take conservation areas into account.

Local Plan (District-Wide) Policy ENV3 requires all development proposals to achieve a high standard of design, having regard to the character of the surrounding area and of adjacent buildings. ENV3 also requires all development proposals to harmonise with their surroundings in terms of design.

Local Plan (District-Wide) Policy ENV6 seeks to protect Conservation Areas from development that would have a detrimental effect upon their character and appearance.

With regard to applications for Conservation Area Consent, Local Plan (District-Wide) Policy ENV7 states that permission will not normally be granted for the demolition of buildings which contribute to the overall character of a Conservation Area.

Local Plan (District-Wide) Policy ENV8 requires all development proposals within Conservation Areas to achieve a high quality of design appropriate to the special historic or architectural character of the area. ENV8 specifically requires proposals to harmonise in scale and form with their surroundings.

As noted by the Appeal Inspector in the aforementioned decision notice, these policies broadly follow Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas in the exercise of planning functions. This is expanded upon in PPG15 - *Planning and the Historic Environment*.

The District Council has also adopted supplementary planning guidance that sets out a range of separation distances between residential units, in order to maintain an acceptable degree of privacy, although the guidance states that its provisions will not be directly applied in Conservation Areas, where the over-riding need is to preserve or enhance the character or appearance of the area.

## **PLANNING HISTORY**

In 1954 planning permission was granted for the conversion of 26 Binswood Avenue into two maisonettes (Ref. 4718).

In 1961 an application was made for a single prefabricated garage fronting Trinity Street (Ref. 8182). This was deemed to be permitted development.

Application for Conservation Area Consent W20010146 for the demolition of this garage and the adjacent garden walls and planning application W20010145 for the erection of a new double garage with private graphics studio in the loft space was refused under delegated powers on 5 July 2001 for the following reasons:

W20010145

*“(1) The application site fronts onto Trinity Street and is a part of the Conservation Area where the presence of high brick boundary walls, associated pedestrian gates and the modest height of garages at the rear of properties fronting Binswood Avenue, create a distinctive spacious character compared with the neighbouring two storey built development which line either side of other parts of Trinity Street. The proposed development would by reason of the height, mass and proportions of the building seriously harm the character and appearance of the Conservation Area by introducing an over-dominant building which would appear as an incongruous element in the street scene and prejudice the open aspect that forms such a local characteristic for the northern side of this part of Trinity Street. The proposal would therefore be contrary to Policies (DW) ENV3, (DW)ENV6 and (DW)ENV8 of the Warwick District Local Plan 1995.”*

*“(2) The proposed development would occupy the whole width of the residential plot and would stand directly adjacent to the rear gardens of the neighbouring dwellings at No.24 and 28 Binswood Avenue. The proposed first floor windows, to serve the first floor accommodation to be used for purposes incidental to the residential occupation of the main property (graphic studio), would be very close to the site boundaries and would face down the whole length of the rear gardens of the two neighbouring residential properties. The proposal would, particularly by reason of the height, scale and mass of the development and the size and position of the windows have an over-bearing impact on the neighbouring residents' amenities and, through overlooking, detract from the privacy and enjoyment of their garden areas. The proposal would therefore not harmonise with the surroundings and would thereby be contrary to Policy (DW) ENV3 of the Warwick District Local Plan 1995.”*

W20010146CA

*“The application site fronts onto Trinity Street and is part of the Conservation Area where the presence of high brick boundary walls, pedestrian gates and garage doors at the rear of properties fronting Binswood Avenue creates a distinctive and continuous boundary treatment in between the neighbouring two-storey built development which line either side of other parts of Trinity Street. The proposed demolition of the rear boundary wall and loss of the means of enclosure provided by the garage doors would create an incongruous opening in the frontage to Trinity Street that would be harmful to its character and appearance and that of the Conservation Area, particularly in the absence of an approved scheme for a replacement building and/or boundary wall. The proposal would thereby also be contrary to Policy (DW) ENV7 of the Warwick District Local Plan 1995.”*

Appeals against both applications were dismissed on 17<sup>th</sup> June 2002. Revised applications which sought to address these concerns were reported to this 'Committee of the meeting on 19 August 2003 at which planning permission and conservation area consent were refused. Conservation area consent was refused for the reason given above and planning permission was refused for the following reason:

*"No. 26 fronts Binswood Avenue and is a substantial, semi-detached dwelling. In common with its neighbours, the rear garden opens out on to Trinity Street, from where pedestrian access can be gained to the garden and vehicular access to a prefabricated garage. The site lies within the Leamington Spa Conservation Area, a main characteristic of which is the street plan. In broad terms this plan follows a grid, with a variety of large dwellings fronting the main thoroughfares, such as Binswood Avenue. Interspersed within the primary grid is a secondary grid of streets, like Trinity Street, that serve the rear areas of the dwellings.*

*The section of Trinity Street between Binswood Street and Beauchamp Road has a varied character. At the western and eastern extremities of the section concerned, the frontage is two storey with 19th Century mews buildings and a row of terraced houses that date from the 1980's. In between these extremities, the frontage is predominantly single storey, made up of garden walls and garages.*

*The proposed garage with accommodation above would sit more or less in the middle of this single storey frontage. The height to the top of its ridge would be 4.793 metres and 4.1 metres to the top of the lower front and side gable ends, substantially higher than the 2 metre high garden walls and garages around it. As a result of this disparity, the District Planning Authority consider that the new building would have a bulk, height and scale that would appear wholly incongruous within the particular part of the frontage it would lie within. It would, therefore, fail to preserve or enhance the character or appearance of the conservation area. The proposal would thereby also be contrary to policies (DW) ENV3, (DW) ENV6 and (DW) ENV8 of the Warwick District Local Plan."*

## **KEY ISSUES**

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

The site is within the rear garden of 26 Binswood Avenue, fronting onto Trinity Street, within a predominantly residential part of the Leamington Spa Conservation Area. At present the site is occupied by a single storey prefabricated garage which is set back a little way from the boundary with Trinity Street. To either side of the garage stands a two metre high brick boundary wall incorporating a pedestrian access gate on the left hand side.

Trinity Street is a relatively narrow mews street, situated between Binswood Avenue to the north and Beauchamp Avenue to the south. Large sections of the Street are relatively undeveloped, fronted by either brick boundary walls or single storey garages. Other parts contain some two storey mews buildings, many of which have now been converted into separate dwellings.

Trinity Street is divided into 4 separate parts by the north-south roads which join Binswood Avenue with Beauchamp Avenue. The site is situated on the northern side and towards the eastern end of Trinity Street, in the section between Binswood Street and Beauchamp Road. The northern side of Trinity Street, in the vicinity of the site (i.e. to the rear of Nos. 20-34 Binswood Avenue), is characterised by high brick boundary walls, associated pedestrian gates and garages of only a modest stature. This is mirrored by low rise development immediately opposite on the southern side of the Street.

At the eastern end of this section of Trinity Street are two commercial properties, situated on either corner of the junction with Beauchamp Road. Towards the western end and on the northern side is a 1980s development of two and a half storey terraced houses (Nos. 150 to 164 evens). These were erected on the site of a former scrapyard. Opposite this development, on the southern side of the street, is a collection of two storey mews buildings which have been converted into separate dwellings (Nos. 163 to 175 odds).

### **Details of the Development**

Conservation Area Consent is sought for the demolition of an existing prefabricated concrete garage and adjacent boundary walls in order to facilitate the erection of a replacement single storey double garage. The development has been amended to address the previous reasons for refusal, principally by omitting the graphics studio from the loft space in order to reduce the overall height of the building.

In comparison with the previously refused scheme, the footprint of the building is identical - it would have an inverse L-shaped footprint to account for the position of the existing mature trees to be retained on the side boundaries of the site. The development would extend across the full width of the site to 7.9 metres. The main body of the garage would have a depth of 5.510 metres with the rear wing extending to 8.6 metres across a depth of 4.8 metres. The graphics studio would be relocated to the rear wing from the loft space to replace the workshop area originally proposed. Provision for a workbench within the body of the garage is now proposed to replace the workshop .

The front elevation has been handed and is reduced in overall scale. Two separate close boarded timber garage doors are maintained beneath unequal sized gables that would be at right angles to the pitched roof over the main body of the garage which, in turn, would present equal sized gables to the side elevations. The roundel window originally proposed in the larger of the two front gables has been omitted together with the rooflights in the front roof slope. Glazing is maintained in the roof of the rear wing to light the studio and in the rear slope of the main garage roof. As now proposed, the building would stand 2.3 metres at the eaves compared to 2.6 metres and 4.1 metres at the ridge compared to 4.793 metres, whilst the front gables would have ridge heights of 3.5 and 4.1 metres respectively compared to 4.95 and 4.7 metres. Pedestrian access is maintained from Trinity Street and from the rear garden.

## Assessment

The proposal seeks to address the reason for refusal issued in respect of the previous application. In support of the proposals, the following statement has been submitted:

*"The current proposal is for a single storey building with reduced roof pitches to minimise the height and bulk. The form of the roof is composed of a number of individual elements, breaking up the building form and producing a dramatically reduced visual scale. The reduced roof pitch and adjustments to the roof form also have the effect of reducing the height and bulk of the building significantly. We believe that the Inspector's and Local Authority's concerns have therefore been fully addressed.*

*We have prepared an illustration of the appeal scheme in the same CAD model format as the current proposal to demonstrate how the current proposal has addressed the Inspector's concerns.*

*With the appeal scheme it was considered that there was an overlooking problem posed by a first floor dormer window to the north elevation. All loft and upper level accommodation has been omitted from the current proposal. A limited area of patent glazing to the roof over the studio area is provided to gain top light.*

*The application includes for the removal of the existing prefabricated concrete garage servicing No 26 Binswood Avenue and providing a replacement double garage with attached studio.*

*The existing garage is unsightly and in poor condition. Vehicle access is from South Trinity Street.*

*The proposed building provides a double garage with an attached studio space to the rear to accommodate the applicant's interests in art and graphic design.*

*The party fence wall on either side of the garden will be replaced by the gable walls of the new building. The wall between No 26 and No 28 Binswood Avenue is in poor condition in this area and is leaning substantially.*

*The building extends under the canopies of trees on the site. The canopies are high and will not be affected by the development.*

*Foundations will be achieved by the use of mini piles and shallow ground beams to avoid disturbance of the root systems. The ground floor slab will be supported from the ground beams to avoid superimposed loads on the ground surface under the tree canopy.*

*The verge incorporates a plinth brick detail to ensure that the verge edge can be achieved without projecting beyond the face of the wall.*

*The design has been developed to echo the traditional coach house arrangement found along the service streets like South Trinity, which serve properties such as 26 Binswood Avenue. Twin single garage doors have been incorporated in lieu of a large double width door to maintain the correct scale and proportion. Details such as the slate roofing and second-hand facing brickwork help echo the surroundings.*

*We believe that the very substantial reduction in height, bulk and scale of the proposal addresses the Planning Inspector's concerns and that taken in conjunction with the removal of the unsightly prefabricated concrete garage on the site the proposals represent a positive contribution to the Conservation Area."*

In my opinion, the main issue is whether the proposal satisfactorily addresses the reason for refusal issued in respect of the previous scheme regarding the impact on the character and appearance of the conservation area and neighbours concerns regarding the impact on their amenities.

## **1. Impact on the character and appearance of the Conservation Area**

In considering this aspect of the appeal proposals, the Inspector concurred with the District Council's contextual assessment of the character and appearance of this particular part of the conservation area, wherein the height of the proposed development would be substantially higher than the 2 metre high garden walls and garages around it. In paragraph 8 he concludes that *'As a result of this disparity, I consider that the new building would have a bulk, height and scale that would appear wholly incongruous within the particular part of the frontage it would lie within. It would, therefore, fail to preserve or enhance the character or appearance of the conservation area.'* The previous scheme sought to address these objections. However, I did not consider that the bulk, height and scale had been sufficiently reduced to satisfied this particular concern and I maintained an objection to the development on these grounds.

In comparison with the previous scheme, the footprint of the development is identical. However, as now proposed the bulk, height and scale of the development has been reduced further in response to these concerns by omitting provision for loft space accommodation. The CAAF and neighbouring residents acknowledge these improvements yet express preference for further reductions in order to render the scheme acceptable. For example, the omission of the side gables and shallower roof pitch. Whilst there is no practical reason why these amendments could not be achieved, nevertheless I concur with the agents that the design of the roof does diffuse the mass of the building form in an acceptable manner. As now proposed, I do not consider the height, scale or design of the development would be unacceptably disparate or incongruous within this particular part of the frontage to Trinity Street or the character and appearance of this part of the Conservation Area to warrant refusal.

## **2. Impact on neighbours amenities**

In comparison with the previous scheme, the overall height, scale and mass of the development has been reduced and no windows are proposed in the rear elevation or roof slope either. I fully appreciate neighbouring residents concerns regarding the visual impact of the development and that it would have an over-dominant and overbearing effect on their outlook/enjoyment of their rear gardens. However, no objection was raised to the previous scheme on these grounds, and I remain of the opinion that, as now proposed, the development would not have an unacceptable impact on neighbouring residents' amenities in these terms.

## **RECOMMENDATION**

1. That planning permission be GRANTED, subject to conditions on large scale architectural details, materials, foundation details, tree protection, use of garage and garage door openings.
2. That conservation area consent be GRANTED, subject to no demolition taking place unless and until a contract for the carrying out of works of redevelopment of the site has been let.