

Application No: W 10 / 0942

Registration Date: 18/08/10

Town/Parish Council: Leamington Spa

Expiry Date: 13/10/10

Case Officer: Rob Young

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131-137 Regent Street, Leamington Spa

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 FOR Midland Assured Estates 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 subjected to the completion of a legal agreement.

SUMMARY OF REPRESENTATIONS

With the exception of the comments from WCC (Highways) and WDC Waste Management, the representations listed below were all made in relation to the original plans. The Town Council and neighbours have been renotified following the receipt of amended plans and any further comments received will be included in the addendum report to Committee.

Town Council: An objection is raised for the following reasons:

- concern was expressed over the restricted size of individual accommodation units and of the communal areas;
- parking provision is considered inadequate and does not match the minimum HIMO requirements which could impact on the surrounding limited on-street provision; and
- over development of the site.

Public response: 3 residents from elsewhere in Leamington (Warwick Place, Warwick Terrace & Heath Terrace) have objected on the following grounds:

- Leamington is turning into a student ghetto;
- we are already overrun with students; and
- parking will be a problem.

Conservation Area Advisory Forum: It was felt to be over development given that 40 new student bedrooms were to be created, plus the 16 for which consent had already been granted over the buildings in Regent Street. It was felt that the spaces created, because this was such a tight development, were sub-standard and not adequate for students to live in. There was also a lack of parking on the site. Concern was expressed at the loss of the view of the rear of the Sozzled Sausage pubic house which is a listed building. In terms of the

design of the new building fronting Kenilworth Street, this was felt to be poorly designed in classical terms, particularly with the window cills breaking through the rusticated lower part of the building. The vehicular access through the building was also felt to be out of proportion with the rest of the building. It was felt that a simpler detailing, similar to the approval granted for the upper part of Kenilworth Street would be more appropriate for this site if developed in some way.

Warwickshire Police: No objection, but make the following comments. Student accommodation in Leamington has been targeted for burglary's where desktop / laptop computers and gaming machines have been stolen. I would recommend that the following are considered:

- The site perimeter and all gardens should be secured with a robust fence or wall, without footholds, to a minimum height of 2m. The rails of any timber fence should face the garden. The topography of the land should be taken into account
- A 1.8m fence and gate, with anti-lift hinges and a lock, should be erected to communal areas, a padlock is not suitable it must be a key operated lock with a slam shut facility.
- Boundary walls, bins and flat roofs should not be located so as to become climbing aids for intruders to gain access to upper floors. Utility meters should be located on the front elevation. Appropriate fencing with a height of 2m needs to be put in place round the perimeter, so the car park and site is secure.
- Recommend that communal doors, front doors and rear doors meet PAS 23/24 standard.
- Ground floor windows meet BS7950.

WCC (Highways): (Comments made following the receipt of amended plans to address earlier concerns that they had raised). The site has been assessed with the understanding that the dwellings are to be used as student accommodation exclusively and the following comments from the Highway Authority should not be attributed to any other application or proposed development. The Highway Authority acknowledges that the number of proposed parking bays associated with the development proposed are limited, however, given the flats are for use as student accommodation, the Highway Authority consider the number of spaces provided to be adequate as there are numerous sustainable transport options available to residents.

The Highway Authority recognises there is demand for on-street parking and an additional 50 dwellings is likely to exceed capacity for parking in the immediate area. As such, the Highway Authority would not support the provision of residential parking permits to residents of the development.

The Highway Authority further recognises that for some individuals, especially at the beginning and end of semesters, the use of a private car to transport suitcases and heavy items to and from the site will be the preferred mode of transport. The Highway Authority is satisfied there is sufficient provision of parking in the immediate area to allow for this occasional loading and unloading of vehicles without the development causing a Highway safety concern.

The Highway Authority's response is therefore one of NO OBJECTION, subject to conditions.

WDC Cultural Services: Please could you apply the Open Space SPD to this planning application for an offsite capital contribution.

WDC Private Sector Housing: Set out minimum space standards for the bedrooms and kitchen / living rooms.

WDC Waste Management: This plan looks fine to me, as long as there are enough bins purchased when it is finished, and that there is always access for the vehicles to get into the allocated access.

RELEVANT POLICIES

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

PLANNING HISTORY

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

In April 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 November 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).

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 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 site. Regent Street and the rear elevation of the shop at No. 139 Regent Street and the 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;
- 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;
- total of 32 student bedrooms in the two blocks; and
- alteration to existing vehicular access.

The following amendments have been made to the application:

- rear part of Block A omitted and other windows relocated to address concerns about substandard separation distance from Block B;
- layout of blocks changed to address concerns about poor outlook from some bedrooms;
- alterations to internal layout to meet Private Sector Housing internal space standards;
- bin store and cycle store layout amended;
- additional cycle storage provided;
- cycle stores to be painted dark green and bin and cycle store enclosures to be stained dark green;
- shopfronts changed from aluminium to timber;
- bottom half of first floor windows in west elevation of Block A shown to be obscure glazed and non-opening;
- second floor windows omitted from west elevation of Block A;
- parking and access layout amended to address concerns of the Highway Authority;
- design of Block B amended to include revised roof design and revised elevation to Kenilworth Street;
- archway to Kenilworth Street reduced in width and increased in height;
- design of Block A amended to include revised roof design; and
- confirmation that all new hard surfaces will be constructed of porous material.

Assessment

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

- the principle of permitting student accommodation 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 development for student residential accommodation would be in accordance with Local Plan Policy UAP1. I note that some Leamington residents have objected to the principle of permitting further student accommodation in Leamington. However, I have seen no evidence to suggest that the provision of additional student accommodation in this predominantly commercial part of the town centre would result in a harmful over provision of student accommodation in this area.

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 5 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.

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 second floor windows have been omitted from Block A and 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.

Living conditions of future occupants of the proposed development

I note the concerns of the Town Council and CAAF about the size of the units and the communal areas. However, the plans have been amended to meet the internal space standards specified by the Council's private sector housing team. The amendments will also ensure that all of the proposed bedrooms will benefit from an adequate degree of privacy.

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).

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 raised concerns about the loss of views of the rear of the Sozzled Sausage. However, Block B would be 7m from the rear elevation of the single storey extension on the rear of the Sozzled Sausage and 11.5m from the main three storey rear elevation. I am satisfied that this is far enough away to preserve the setting of that Listed Building and this is also far enough away to ensure that the development would not completely block views of the rear elevation from Kenilworth Street. I am satisfied that the amendments have addressed the other concerns that CAAF have raised about the design of the proposals.

Car parking and highway safety

The proposed car parking and access 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.

I note that the Town Council, CAAF and the objectors have raised concerns about the car parking provision. The Council's Parking Standards do not specify a standard for student accommodation, but state that every case should be considered on its own merits. The parking provision that has been shown would represent a ratio of 1 space for every 6.4 bedrooms. In assessing the suitability of this parking provision, I am conscious of the fact that the site is situated within a Resident's Parking Zone and that the applicant has agreed to enter into a Section 106 agreement to waive the rights of future occupants of the development to apply for resident's parking permits. Furthermore, the plans have been amended to show covered cycle parking for 27 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.

Other matters

I note that the Town Council and CAAF consider these proposals to be an overdevelopment of the site. However, the amendments have reduced the size of the development and I am satisfied that the amended proposals would not result in any harmful effects that would justify a refusal of planning permission. Therefore, I am satisfied that the development proposed would be acceptable for this densely developed part of the town centre and that it would not represent an overdevelopment of this particular site.

The amended 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 £20,096 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 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.

The comments of Warwickshire Police have been passed on to the applicant.

RECOMMENDATION

GRANT, subject to the conditions listed below and a Section 106 agreement to secure a contribution towards the provision or enhancement of public open space and 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) 2661-101J, 2661-102F, 2661-103F, 2661-104E, 2661-106E, 2661-108, 2661-109, 2661-111, and specification contained therein, submitted on 17 November 2010 & 23 November 2010, 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 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 No part of the student residential accommodation 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 Policy DP1 of the Warwick District Local Plan 1996-2011.
- 6 Detailed drawings shall be submitted to and approved by the Local Planning Authority before any work is commenced to indicate the finished site and ground floor levels intended at the completion of the development in relation to the existing site levels and the levels of the adjoining land and the development shall be carried out and completed in accordance with the details so approved. **REASON :** To protect the character of the area and the amenities of adjoining occupiers in accordance with the requirements of Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.
- 7 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.
- 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 occupants of the development hereby permitted 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 part of the student accommodation hereby permitted is 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 No part of the student residential accommodation 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 The development hereby permitted shall only be occupied as a student hall of residence solely by individuals enrolled on a further education course. **REASON:** Since there may be insufficient parking for other forms of residential occupation, in accordance with Policy DP8 of the Warwick District Local Plan.
- 23 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.
- 24 Prior to the occupation of the development hereby permitted, the bottom half of the first floor windows in the west facing elevation of Block A 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. 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 22 of the Town and Country Planning (General Development Procedure) (England) (Amendment) Order 2003, 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.
