

**Planning Committee:** 04 March 2020

**Item Number: 7**

**Application No:** [W 19 / 2006](#)

**Town/Parish Council:** Leamington Spa  
**Case Officer:** Helena Obremski

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**Registration Date:** 26/11/19

**Expiry Date:** 21/01/20

**Unit 1, Moss Street, Leamington Spa**

Removal of Condition 15 of planning permission ref: W/15/2154 [Demolition of existing commercial buildings and erection of a 47 bedroomed House in Multiple Occupation (HMO)] to allow for unrestricted occupancy (resubmission of W/18/2212). FOR Sureway Property Services Group

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This application is being presented to Committee as there have been more than 5 letters of support received for the application and it is recommended for refusal.

**RECOMMENDATION**

Planning committee are recommended to REFUSE planning permission for the reason set out in the report.

**THE SITE AND ITS LOCATION**

The application site is located in the old town part of South Leamington Spa close to the railway station and situated immediately to the rear of development fronting Radford Road. Moss Street is a short spur road off Althorpe Street serving only this site. The site has been redeveloped to provide student accommodation, with 47 rooms in total and the use has been implemented. The site is also located within the Conservation Area.

**DETAILS OF THE DEVELOPMENT**

The application seeks the removal of Condition 15 of planning permission ref: W/15/2154. Condition 15 currently reads:

*"The building hereby permitted shall be used solely as a student hall of residence and ancillary purposes thereto, being occupied solely by persons enrolled in a full time course of higher education."*

The proposal would allow the buildings to be utilised as a HMO with unrestricted occupation.

The application includes a Management and Travel Plan which reflects the proposed change by omitting reference to students specifically and outlines how all the potential occupants of the building will be required to comply with the procedures and regulations set out in the tenancy agreement.

Separately, the Planning Statement provided in support of the application states that with each of the 6 apartments in the Moss Yard element, they are offering a car parking permit which the developer will purchase for the nearby public car park for the duration of the academic year, at a discounted price. The applicant proposes that this will ensure that those who actually need a parking permit will be able to obtain one, rather than those who do not need one just applying for one.

In comparison to the previous application for the same description of development which was dismissed at appeal, a parking survey has been submitted in support of the application. 12 car parking spaces are also shown on the proposed site plan.

### Background

Phase one of the development was granted for 15 cluster apartments and phase two consists of four no. five bedroom cluster flats and two no. six bedroom cluster flats. The development has been constructed and is complete. The Management Plan submitted for this application is for the combined developments under planning references W/15/2154 and W/17/1071. The applicant has confirmed that the letting/managing agent will have the responsibility of vetting and seeking references from potential tenants. The house caretaker will be employed to oversee the car parking management ensuring only cars with a valid permit are on site. It would be a condition of the tenancy agreement that residents without a valid permit will not be allowed to bring their own cars onto the site otherwise their tenancy agreement will be terminated. The document confirms that the development will also have 35 cycle racks.

### **PLANNING HISTORY**

W/14/1509 (1-3 Althorpe Street) - Demolition of existing building and erection of three storey 15no. bedroomed House in Multiple Occupation (HMO) (Use Class Sui Generis) - Withdrawn.

W/15/0944 (1-3 Althorpe Street) - Erection of three storey 16no. bedroomed House in Multiple Occupation (HMO) (Use Class Sui Generis) after demolition of existing building - Approved.

W/15/2154 – Demolition of existing commercial buildings and erection of a 47 bedroomed house in multiple occupation – Appeal allowed.

W/17/1071 – Variation of condition 2 (drawing numbers) of planning permission W/15/2154 - Approved.

W/18/2212 - Removal of Condition 15 of planning permission ref: W/15/2154 [*Demolition of existing commercial buildings and erection of a 47 bedroomed House in Multiple Occupation (HMO)*] to allow for unrestricted occupancy - Appeal dismissed.

### **RELEVANT POLICIES**

- National Planning Policy Framework

- The Current Local Plan
- BE1 - Layout and Design
- BE3 - Amenity
- TR3 - Parking (Warwick District Local Plan - 2011-2029)
- TR2 - Traffic generation (Warwick Local Plan - 2011-2029)
- TR1 - Access and Choice (Warwick District Local Plan - 2011-2029)
- Guidance Documents
- Parking Standards (Supplementary Planning Document)

## **SUMMARY OF REPRESENTATIONS**

**Royal Leamington Spa Town Council:** No objection, notes that the parking survey was carried out outside of university term time and request that another is carried out.

**Councillor Chilvers:** Supports application, happy to see the restriction removed and preference given to electric vehicles. Satisfied that the transport plan is a fair reflection of reality.

**Waste Management:** No objection, adequate waste storage is currently provided for the property.

**Environmental Health:** No objection.

**WCC Highways:** No objection.

**Public Responses:** 1 Objection, students will bring their cars during term time. Local streets are very busy during term time and park where they can. Car share, electric vehicle and cycle schemes never work. The proposal contravenes policy H6 as the area is saturated with students.

11 Support:

- There is plenty of student accommodation and this type of accommodation is sparse.
- Professionals are more likely to bring revenue to the local economy.
- The opening up of electric charging points to the public can only be a plus for the environment and help encourage use of electric vehicles.
- Parking is not an issue.
- This type of accommodation makes it easier for people moving to the area as a good base with inclusive costs, and makes it easier to make friends.
- The rooms are reasonably priced, in a good location with good local transport links.
- The property has good sized rooms.

## **ASSESSMENT**

This application relates purely to the removal of condition 15 of permission W/15/2154 which was imposed to control occupancy to students only. The Inspector who allowed the original application at appeal considered that there was inadequate parking provided on site and that nearby areas experienced parking

stress. The Inspector added the condition as they determined that students have lower car ownership than professionals, thus addressing the matter of parking. As the removal of condition relates purely to whether there is adequate parking to serve the development, this is the only matter which will be considered below.

*Findings from the Appeal Decision for the Original Application - W/15/2154*

The appeal for application ref: W/15/2154 was considered under the Council's previous Vehicle Parking Standards SPD (Nov 2007) which required 1 space per 2 bedrooms in the case of HMOs and student parking was considered on a case by case basis, influenced by the need of staff and residents, the availability of other transport links and other site considerations. The 15 bed part of the development provided 2 on-site spaces and the Council considered the shortfall of 6 spaces, assessed against the parking standards for a HMO would be acceptable and could be accommodated by existing on-street parking spaces in the area. The additional 32 bed accommodation proposed would provide an additional 7 on site spaces, providing 9 for the development as a whole. A 32 bed HMO would require 16 spaces under the adopted standards leading to a further shortfall of 9 spaces for this part of the development and an overall shortfall of 15 spaces for the combined 47 bed scheme.

The Inspectors under both previous decisions were mindful that the site is in a sustainable location offering good access to public transport, both rail and buses. The proposal also replaced a builder's merchant use which generated on street parking demands from its employees and visitors.

However, the Inspector for the original application made reference to the Council's concern regarding the displacement of short term on-street parking in Althorpe Street leading to short term parking in less appropriate spaces to the detriment of highway safety and amenity. He acknowledged that there was pressure on parking in the area and concluded that "*The area is in no doubt subject to a significant churn of short term on-street parking during business hours.*" (para 27). He went on to say that "*The level of on-street parking generated would not likely effect the existing operation of Althorpe Street so as to cause material harm to the safety and convenience of users of the surrounding highway network.*"

The appellant provided parking surveys at the time of the original appeal and the Inspector considered that the surveys showed there to be unoccupied parking beyond Althorpe Street within a reasonable walking distance within surrounding streets that would accommodate the shortfall of 15 spaces. However, he considered residents would more likely park within the unrestricted parts of nearby residential streets such as Radford Road and Camberwell Terrace, Plymouth Place, Russell Terrace and Farley Street.

The Inspector considered that from his site visit there would appear to already be a degree of parking stress in these residential areas. Accommodating a potential further 15 cars in this area, he concluded would increase the pressure on these spaces. However, the appellant made it clear that although originally described as a HMO, the proposal would provide student rooms in collaboration with Warwick University who discourage car parking on the campus and so access by students living in Leamington Spa would mainly be by public transport. The Inspector made the point that students living in Leamington might wish to have their own cars to access destinations other than Warwick University and they may park throughout

the day in Leamington whilst taking public transport to the University. He also considered that the accessibility of this site to services, the limited amount of on site parking provided and the need to reach the university by public transport might also deter students from bringing a car to Leamington during term time. The Inspector considered that the conditions restricting occupancy to students and an occupational management plan and a Green Travel Plan would provide a means to secure agreement over the measures the appellant was offering.

Whilst the residual increase in the demand for on-street parking would be spread throughout the local area where unrestricted provision was available and this would add to the inconvenience in finding parking spaces for local occupiers, the Inspector considered that as the accommodation would be for students and would provide a relatively low proportion of occupiers requiring car parking, this demand could be actively managed. As such the Inspector considered the demand for off-site car parking arising from the proposal would not be such as to have an unacceptable adverse impact on the amenity of nearby residents.

#### *Findings from the Appeal Decision for the Removal of Condition 15 - W/18/2212*

Under the more recent appeal for the removal of condition 15, the Inspector shared similar concerns, stating that, "*the evidence before me indicates that the area surrounding the appeal site currently suffers from a high level of parking stress.*" (para. 16) and that there was a lack of evidence to demonstrate that was sufficient car parking capacity within the surrounding area.

The appellant suggested that tenants from employees such as Jaguar Land Rover who provide incentives such as a dedicated bus service would reduce car usage associated with the proposal, and that tenants would be controlled via the tenancy agreement which would not allow them to bring cars to the site. The Inspector however noted that it cannot be guaranteed that prospective tenants of the proposed development would be employed by any such private company or public organisation which would provide dedicated transport services. Nor could be it be guaranteed, in the event such dedicated transport services were currently available, that circumstances may change in the future and that such services may become unavailable. Further in relation to the control of car usage at the site through the tenancy agreement, the Inspector concluded that it would not be possible to adequately assess whether occupants had brought cars with them to the wider local area without constant checks being made on the local road network.

The Inspector dismissed the appeal on the basis that the unrestricted occupancy of the application property would lead to additional parking in nearby streets which suffer from parking stress, and that future residents could park in such a way that lead to loss of amenity to nearby residents and cause implications for highway safety.

#### *Assessment of the Current Proposal*

The site plan has been amended to provide a total of 12 spaces (increasing from 9 under the approved scheme). Even with the increase in 3 spaces, there would still be shortfall of 12 spaces which would need to be accommodated on street. However, the additional spaces provided are not considered to be acceptable spaces; two additional spaces are provided to the south of the site in a "tandem"

arrangement. Whilst this may be suitable for an individual residential property, where the occupiers would be able to arrange amongst themselves to manoeuvre vehicles in and out of the spaces, the residents of the application property would be entirely unrelated individuals who are likely to block each other in, thus not providing an acceptable parking solution.

Furthermore, all of the proposed additional spaces do not meet the adopted vehicle parking standards requirements in terms of size, so cannot be counted for this reason alone. Therefore, it is still considered that a shortfall of 15 spaces exists.

The parking statement submitted in support of the application suggests that there would be a likely split of 50% students and 50% professionals using the property. However, as the occupancy condition would be removed entirely if the application were approved, removing all restrictions, the assessment must be based on the situation if 100% of the development were utilised by non-students, as this is a realistic possibility.

An important consideration is that under the original application, parking surveys were submitted which identified that there was sufficient capacity within the wider area to accommodate the required level of parking associated with the development. However, in realistic terms as noted by the Inspector, residents are more likely to park in unrestricted parts of nearby residential streets such as Radford Road, Camberwell Terrace, Plymouth Place, Russell Terrace and Farley Street, which could not have accommodated the required level of parking owing to existing parking stress.

It is clear from the Inspector's original decision, that the reason for imposing the condition was due to the unique behaviour of students' travel patterns and arrangements which led him to conclude that students led to a relatively low proportion of occupiers requiring car parking such that the demand could be actively managed. To translate this to the rest of society would not be so easy to manage as this would mean trying to manage different travel arrangements over various companies and relating to individual behaviours, which the Inspector for the more recent appeal concluded would be too difficult to control.

The applicant has provided a parking survey in support of the current application which was not provided as part of the last application to remove condition 15. For the assessment of this application, the applicant proposes to rely on the original survey from May 2015 (surveys undertaken: 13th at 11:30; 14th at 00:30 and 17:30) and also a survey taken on Tuesday 13th (18:00) and Wednesday 14th August 2019 (11:30 and 00:30). Roads within 200 metres of the site were surveyed, but excluded Residents Parking Zones and sections of roads with parking restrictions. The earlier survey from May 2015 was conducted during school and university term time and the results of all surveys are provided as a "picture" of the parking situation nearby to the site. The road surveys include Althorpe Street, Moss Street, part of Radford Road, Styles Close, Davidson Avenue, Clapham Terrace, Plymouth Place, and the lower part of Farley Street.

The surveys indicate that there has been an increase in available parking within these streets of between 36% and 56% depending on the time of day when the survey results were taken between May 2015 and August 2019. The parking survey also states that a small survey was taken of roads south of the canal in

January 2019 during term-time. The survey provided states that the number of available spaces had also increased by 19% in August 2019.

The survey also notes that Court Street car park has been extended and overnight parking charges are £1. The survey notes that there were 3 cars parked within the car park during one August after midnight survey and that Packington car park had 4 cars parked at the same time. It does not however confirm the number of available spaces.

The supporting documents inform that another parking survey was carried out during the night on 17th and 18th October 2019 during university and school term time.

The Council's adopted Vehicle Parking Standards SPD requires that parking surveys are carried out in accordance with the "Lambeth Methodology", a nationally recognised methodology. Specifically the Vehicle Parking Standards state that parking surveys should be undertaken only within the Higher Education term-time. The methodology requires that two snap-shot surveys are taken on two separate weekday nights between the hours of 00:30 and 05:30. The guidance specifically states that the surveys should not be undertaken during public holidays, school holidays (recommending that the weeks immediately following or preceding school holidays should be avoided) and when local events are taking place, as the times may impact the results of the surveys. The guidance also states that additional surveys may be required when a site is located within the town centre and when a site is nearby to railway stations to assess the impact of commuter parking.

Term time for Warwick University is listed on their website as being 30th September 2019 - 7th December 2019 and from 6th January 2020 - 14th March 2020. Coventry University term time was 16th September 2019 - 15th December 2019 and from 20th January 2020 until 23rd April 2020.

The rationale for surveys being carried out during university term time is that students will bring cars with them when at university, which impacts on local parking. Whilst it is recognised that students have a lower car ownership than professionals for example, this does not mean that students have zero car ownership. This is likely evidenced through the comparable surveys which were undertaken in May 2015 (taken during term time) and August 2019 (taken outside of term time), where there was an increase in available spaces, despite there being additional residential development which has been approved since the original survey was carried out, which is likely to have increased the demand on local on street parking. For example, application W/15/1448 was approved for the erection of a 187 bedroom student accommodation before the original application was allowed at appeal, however the May 2015 survey fails to take consideration of this. The Vehicle Parking Standards confirm that, "The methodology requires that other permitted schemes be taken into account when calculating available parking". Further, application W/17/1614 for the erection of a 200 bedroom student accommodation development has also not be considered by any of the surveys provided.

Therefore, for the purposes of assessing the application, it is therefore considered that the surveys taken in August 2019 are not sufficiently reliable in order to

provide an accurate perspective of the nearby parking situation when parking stress is likely to be most acute. Furthermore, the survey conducted in 2015 is now nearly 5 years old. It is not considered reasonable or appropriate to rely on outdated information of this nature, which will have been impacted by additional development approved since this time within the nearby area. Moreover, the Inspector who determined the original application and considered the May 2015 survey concluded that condition 15 was necessary for the purposes of the development.

The survey taken in January 2019 of the roads south of the canal has little bearing on the application because as the Inspector for the original appeal identified, the streets closest by to the site are those which are most likely to be impacted, not those further away. Further, whilst the survey states that it was taken in January, it does not give the exact date of the survey, so it cannot be confirmed whether it was taken during term time.

The surveys taken in October 2019 are more helpful and indicate that at 00:30 on 17th and 18th, there were available spaces in Farley Street and Leam Terrace. However, both Farley Street and Leam Terrace are further away than the closest unrestricted parking areas such as Althorpe Street, Moss Street, Radford Road, Styles Close, Davidson Avenue, Clapham Terrace and Plymouth Place where future residents are most likely to park. Further, although two surveys were undertaken during the night, in accordance with the requirements of the Vehicle Parking Standards, as the site is located within the town centre and within walking distance of the train station, surveys should also be undertaken between 07:00 - 08:00 and 17:30 - 18:30 to assess the impact of commuters. It is therefore considered that insufficient information has been provided to demonstrate that there would be adequate provision within the nearby unrestricted parking areas to accommodate the increased level of parking associated with the removal of condition 15.

WCC Highways have assessed the available information and have submitted a stance of no objection to the proposal. However, it is important to note that the Highway Authority only assess the impact of the proposal on highway safety, and not on amenity, which the Local Planning Authority are required to evaluate. WCC Highways have accepted the methodologies of the surveys provided and results which they show. However, for the reasons set out above, Officers do not accept that the surveys have been carried out in accordance with requirements of the adopted Vehicle Parking Standards. Accepting a parking survey which has been carried out outside of university term time would set a dangerous precedent for assessing future developments and there are no special or unique circumstances associated with this particular application which suggest that Officers should deviate from the requirements of the adopted standards.

Furthermore, notwithstanding that WCC Highways have accepted the methodology of the surveys provided, the information presented from October 2019 shows sufficient capacity within Farley Street and Leam Street. From a highway safety perspective, this addresses their previous concerns. However, the impact on amenity of the residents living in the streets closest by to the development are not considered by the Highway Authority, who are likely to be displaced as a result of the additional parking demands from unrestricted residents who wish to park close by to the site, thus having a detrimental impact on amenity.



The applicant again references in the Travel Plan that Jaguar Land Rover (JLR) provides a separate bus from outside the site and also encourages car sharing to enable employees to park at the site. However, as per the Inspector's findings above, it cannot be guaranteed that prospective tenants of the proposed development would be employed by any such private company or public organisation which would provide dedicated transport services. Nor could it be guaranteed, in the event such dedicated transport services were currently available, that circumstances may change in the future and that such services may become unavailable.

The Planning Statement provided in support of the application states that with each of the 6 apartments in the Moss Yard element, they are offering a car parking permit which the developer will purchase for the nearby public car park for the duration of the academic year, at a discounted price. The applicant proposes that this will ensure that those who actually need a parking permit will be able to obtain one. However, this would not address the Council's concerns because there would be no way to control via the planning application that the developer has to purchase the car parking permits, or that they then could only be used by the occupiers of the development. This would still also result in a shortfall of 9 spaces which has not been addressed.

What is also not addressed by this planning application is the impact on parking within Residents Permit Zones if condition 15 were removed. The removal of condition 15 would not preclude any future occupants from applying for residents parking permits. Nearby streets, such as George Street and Forefield Place both are restricted by Permit Zones, which are closer than some of the unrestricted streets referenced by the Inspectors as being likely to be used by the future residents. There is no restriction on the original application to prevent any future occupiers from obtaining a parking permit and therefore the information provided in support of the application fails to adequately address the impact which removing the condition would have on parking within Residents Permit Zones, which would likely be impacted if the condition were removed.

It is noted that a local Councillor has supported the application, stating that the parking survey provided is representative of the local parking situation. There have been 11 letters of support for the proposal, some of which state that parking provision would not be an issue, however most are not from local residents. Conversely, the Town Council have requested that an updated survey is carried out during university term time and there has been a letter of objection referencing additional parking stress during university term time from a local resident.

It is also recognised that there appears to be a loss of cycle parking storage when comparing the approved plans from application W/17/1071 to the current proposal, which would therefore not meet the requirements of the Vehicle Parking Standards. However this would usually be conditioned and could be accommodated within the site boundaries, so does not represent a reason for refusal of the application.

Both previous appeal Inspectors noted the high level of parking stress within the local area, and during the site visit, the Case Officer also noted parking stress on

nearby streets. Officers have recommended that a parking survey is carried out of the relevant streets during university term time in accordance with the requirements of the Vehicle Parking Standards in order to overcome the concerns expressed above, however, this has not been forthcoming. Without this evidence and justification, the removal of condition 15 does not accord with Policy TR3 of the Local Plan and the adopted Parking Standards SPD.

### Other Matters

Reference is made in the Planning Statement to electrical vehicle charging points being made available for local resident's use. The local Councillor and members of the public who support the application state that this would be beneficial and encourage the use of electric vehicles. However, there is a condition on the original permission which requires that the parking spaces are laid out and made available for use of the occupants of the site only (condition 12 of W/15/2154), therefore even if this application were approved, the electric vehicle charging points would not be available for wider members of the public to use. This would require the removal of condition 12 which has not been applied for, so cannot be given weight as part of this application. It should be noted that this would also reduce the available parking of future residents, thus further compounding current concerns regarding removal of condition 15.

Supporters of the proposal also note that there is plenty of student accommodation available and that this type of accommodation is sparse. They note that professionals are more likely to bring revenue to the local economy. Members of the public consider that this type of accommodation makes it easier for people moving to the area as a good base with inclusive costs, and makes it easier to make friends. Members of the public also note that the rooms are reasonably priced, in a good location with good local transport links, and that the property has good sized rooms.

If the application were approved and condition 15 were removed, the occupancy would be unrestricted. This does not mean however that the site would not be used by students and the agent in fact states that it is likely to be a 50/50 split. There is likely to be little economic benefit in removing the condition. Whilst the comments regarding the ease of moving to the area, pricing and location are noted, these do not represent material planning considerations which outweigh the potential harm to amenity which the removal of condition 15 could cause.

An objector to the proposal states that the development contravenes policy H6 as the area is saturated with students. However, the principle of development was established under the original application and is not part of consideration of this application.

### **Conclusion**

The Inspector allowed the appeal for a reduced number of parking spaces than was required in the Parking Standards SPD (2007) relevant at that time on the basis that the development would be occupied by students. This he reasoned was because students led to a relatively low proportion of occupiers requiring car parking such that the demand could be actively managed. In the absence of a parking survey which has been carried out in accordance with the requirements of the Council's adopted Vehicle Parking Standards of all of the nearby unrestricted

streets within walking distance of the site that can demonstrate there is sufficient capacity in the area for on-street parking to accommodate the shortfall in parking on the site if the development were to be used as an unrestricted HMO, the proposed development would lead to additional demand for limited spaces which would be harmful to resident's amenities. The proposal is therefore contrary to Policy TR3 of the Warwick District Local Plan (2011 - 2029) and the adopted Parking Standards SPD.

## **REFUSAL REASONS**

- 1 Policy TR3 states that development will only be permitted which makes provision for parking. Policy BE3 states that development will not be permitted that has an unacceptable adverse impact on the amenity of nearby uses and residents.

The Inspector allowed the original appeal for a reduced number of parking spaces than was required in the Parking Standards SPD (2007) relevant at that time largely on the basis that the development would be occupied by students. This he reasoned was because students led to a relatively low proportion of occupiers requiring car parking such that the demand could be actively managed.

In the opinion of the LPA, in the absence of a parking survey which has been carried out in accordance with the requirements of the adopted Vehicle Parking Standards that can demonstrate that there is sufficient capacity in the area for on-street parking to accommodate the shortfall in parking for the development if it were to be used as an unrestricted HMO, it is considered that the development would lead to additional demand for limited spaces which would be harmful to resident's amenities (by reason of parking stress). The proposal is therefore contrary to the aforementioned policies.

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