

**Planning Committee:** 27 March 2018

**Item Number:** **8**

**Application No:** W 17 / 2392

**Town/Parish Council:** Leamington Spa  
**Case Officer:** Dan Charles

**Registration Date:** 15/12/17

**Expiry Date:** 09/02/18

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**52-60 Warwick Street, Leamington Spa, CV32 5JP**

Erection of third storey over existing building to provide 2no. six bedroom HMOs  
(Use Class C4) FOR Mr. Hardeep Malle

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

**RECOMMENDATION**

Members are recommended to grant planning permission, subject to the receipt of an acceptable Unilateral Undertaking to amend the Traffic Regulation Order for the site in order to restrict the ability of future occupants to apply for parking permits, and subject to the conditions listed at the end of this report.

**DETAILS OF THE DEVELOPMENT**

This is a full planning application for the provision of a lightweight glazed structure on top of the existing building set in from the front and side elevations to create a subservient structure to provide an additional 2no. 6 bed HMOs.

**THE SITE AND ITS LOCATION**

The application property is a large, currently vacant, retail premises located on a prominent corner site within a primary retail area within the Leamington Spa Town Centre. The site also lies within the Royal Leamington Spa Conservation Area.

Planning permission and a Lawful Development Certificate have previously been granted for the conversion of the ground floor into a single retail unit and the first and second floors to be converted into a total of 4 six bed flats (2 at first floor and 2 at second floor).

The application site occupies a corner plot with the main frontage onto Warwick Street and the side elevation facing Bedford Street.

**PLANNING HISTORY**

W/17/1822 - Proposed refurbishment of former Co-Op building. Retail use at ground floor retained. Second floor (formerly storage and office ancillary to retail use) to be converted to 2 no 6 bedroom flats. Elevational modifications to fenestration – Granted 09.11.2017.

W/17/1816 - Proposed lawful development for change of use from First Floor (formerly retail use) to residential use (2 no. 6 bed flats) – Granted 09.11.2017.

W/17/0482 - Proposed refurbishment of former Co-Op building to include subdivision into 4 retail units with new shopfronts at ground floor and conversion of upper floors to 9 no. flats for students (4 x 2 bedroom and 5 x 3 bedroom) with associated external alterations to courtyard area – Refused 28.07.2017.

### **RELEVANT POLICIES**

- National Planning Policy Framework
- DS5 - Presumption in Favour of Sustainable Development (Warwick District Local Plan 2011-2029)
- TCP1 - Protecting and Enhancing the Town Centres (Warwick District Local Plan 2011-2029)
- TCP6 - Primary Retail Frontages (Warwick District Local Plan 2011-2029)
- TCP13 - Protecting the Residential Role of Town Centres (Warwick District Local Plan 2011-2029)
- H6 - Houses in Multiple Occupation and Student Accommodation (Warwick District Local Plan 2011-2029)
- BE1 - Layout and Design (Warwick District Local Plan 2011-2029)
- BE3 - Amenity (Warwick District Local Plan 2011-2029)
- TR1 - Access and Choice (Warwick District Local Plan - 2011-2029)
- TR2 - Traffic generation (Warwick Local Plan - 2011-2029)
- TR3 - Parking (Warwick District Local Plan - 2011-2029)
- HS4 - Improvements to Open Space, Sport and Recreation Facilities (Warwick District Local Plan 2011-2029)
- HE2 - Protection of Conservation Areas (Warwick District Local Plan 2011-2029)
- NE3 - Biodiversity (Warwick District Local Plan 2011-2029)
- Guidance Documents
- Residential Design Guide (Supplementary Planning Guidance - April 2008)
- Open Space (Supplementary Planning Document - June 2009)
- Vehicle Parking Standards (Supplementary Planning Document)

### **SUMMARY OF REPRESENTATIONS**

**Royal Leamington Spa Town Council:** Objection. *"Lack of any parking provision for this development which has doubled in size. Being realistic, we need to acknowledge that some students do own and use cars in Leamington and they cannot be prevented from doing so. Having no on site parking or suitable on street parking means any cars belonging to residents of these flats will have to park them on neighbouring un-permitted streets, adding yet more pressure to these streets. Covent Garden car park will be out of action for some time in the near future and so cannot be relied on to provide parking, and should we be relying on public car parks to provide residential parking? Town Council expressed concern about parking for this development last time and nothing seems to have been done to address this. Town Council also notes that while this is not a HMO application, a HMO calculation was done on the previous application on this site and it exceeded the 10% allowed by Policy H6. It would be useful to know what the addition of an extra twelve flats would bring the calculation to".*

**WDC Green Space Team:** The proposal will result in additional pressure on existing open space within the local area. Recommend a contribution of £10,104 is sought towards the improvement of Mill Gardens, relating specifically to drainage improvements.

**WCC Highways:** The site is in a highly sustainable location. Whilst no permit parking is available within the vicinity of the site, it is possible to apply for L0 Permits that relates to the wider town centre area. Therefore, recommend a Unilateral Undertaking is sought to secure the removal of the property from the permit scheme. Subject to this, no objection is raised to the development.

**Conservation Advisory Forum:** Consider additional storey to be too dominant upon a building that is already unduly visually prominent. The additional storey would harm the setting of adjacent listed buildings and it would appear harmful to the street scene, especially when viewed from Parade. It would therefore harm the appearance of the Conservation Area.

## **ASSESSMENT**

### Principle of development

The application property comprises previous developed land within the urban area and consequently the broad principle of re-use for housing is in accordance with Local Plan Policy H1. With regard to the NPPF, as the site is previously developed and in the urban area its re-use is sustainable, subject to compliance with other policies of the development plan and material considerations.

The proposal seeks an extension on the flat roof of the building to create a 'penthouse' style level to create two additional 6 bed HMOs. This follows the earlier conversion of the first and second floors to a total of 4 flats, each containing 6 bedrooms (Use Class C3). Should these be intended for multiple occupation then a separate planning application for a change of use will be required.

Local Plan Policy H6 for Houses in Multiple Occupation states that planning permission will be granted for Houses in Multiple Occupation where:

- a) the proportion of dwelling units in multiple occupation (including the proposal) within a 100 metre radius of the application site does not exceed 10% of total dwelling units;
- b) the application site is within 400 metres walking distance of a bus stop;
- c) the proposal does not result in a non-HMO dwelling being sandwiched between 2 HMOs;
- d) the proposal does not lead to a continuous frontage of 3 or more HMOs; and
- e) adequate provision is made for the storage of refuse containers whereby - the containers are not visible from an area accessible by the general public, and the containers can be moved to the collection point along an external route only.

Having undertaken the relevant calculation it is confirmed that the proportion of dwelling units in multiple occupation within a 100m radius of the application site is 12.3%. The proposed development would increase this to 13.1%. The property is located within 400 metres of two bus stops, does not lead to

sandwiching of a non HMO property between two HMOs and does not lead to a continuous frontage of 3 or more HMOs.

Where proposals exceed the 10% ratio, Policy H6 allows for exceptions where the site is on a main thoroughfare in a mixed use area where the proposal would not lead to an increase in activity along nearby residential streets. As the site is located on a main thoroughfare within a mixed use part of the town centre, the proposal accords with the exception test and as such is considered acceptable.

The application property has a private rear amenity area which is where the refuse bins are to be located. The bins could then be brought out to Bedford Street for collection. The property is already serviced with a grey bin and alternative week collections, which will not change.

In conclusion, the principle of the development is considered to be acceptable and conforms with the NPPF and Policy H6.

In considering this current proposal alongside the previous approvals for residential uses on the upper floors, I am satisfied that the creation of an additional floor containing two additional units be acceptable in principle.

#### Impact on character and appearance of surrounding area and the Royal Leamington Spa Conservation Area

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

Paragraph 132 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Policy BE1 of the Warwick District Local Plan states that new development should positively contribute to the character and quality of its environment. The policy requires the provision of high quality layout and design in all developments that relates well to the character of the area.

Warwick District Local Plan Policy HE2 (protection of conservation areas) states development will be expected to respect the setting of conservation areas and important views both in and out of them.

It is noted that the current building is not a particularly attractive feature within the Conservation Area and the size, scale and external appearance makes the building a prominent feature in the local area and street scene. These factors together with the vacant nature of the building diminish the character of the local area, street scene and Conservation Area in this location.

In assessing the previous approval under reference W/17/1822, the introduction of the refreshed ground floor retail unit together with new fenestration to the exterior of the building was considered to enhance the appearance compared to the existing situation and by bringing the building back into a practical use, it

would improve the overall visual appearance of the site in the street scene and Conservation Area in this location.

The introduction of a 'penthouse' level to the existing flat roof would add a feature to the flat roof area. The objection raised by CAF is noted. The proposal has been amended to create a set back from the edges of the existing roof and additional glazing has been added to create a lightweight structure under a flat roof that complements the solid character of the existing host building. Similar examples of this type of addition are found in other parts of the Conservation Area. By setting it back from the perimeter of the existing roof, the public views are limited. However, Officers are satisfied that the design and appearance of the building in this location sits comfortably within the existing roofscape of adjacent buildings and does not result in an overbearing feature at roof level within the local street scene.

Subject to the submission of Large Scale Details of the new windows together with details of materials, the appearance is considered acceptable.

#### Impact on the adjacent Listed Buildings

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty to have special regard to the desirability of preserving a listed building or its setting when considering whether to grant a planning permission which affects a listed building or its setting.

Paragraph 132 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Warwick District Local Plan Policy HE1 (protection of statutory heritage assets) states that permission will not be granted to alter or extend a listed building where those works will adversely affect its special architectural or historic interest, integrity, or setting.

The application site lies adjacent to a pair of Listed Buildings. The existing building on the site already dominates the setting of the adjacent buildings. It is considered that the use of a lightweight structure on the roof of the existing building, set in from the perimeter of the building would not result in any additional harm to the setting of these buildings than that which currently exists.

On this basis, Officers are satisfied that the development would not result in any additional harm to the Listed Buildings.

#### Impact on adjacent properties

The development proposes new openings to serve the flats at upper floor. In this location, it is considered that the proposal would not have any harmful impact on the amenity of neighbouring properties.

#### Whether the proposal would provide adequate living conditions for future occupiers

The proposal is in a mixed use area with a variety of different uses. Within the previous submission, the Environmental Protection Officer raised some concern regarding the potential for the adjacent uses to have a detrimental impact on the occupiers of the proposed development.

In responding to this request, the agent provided noise survey information about how the scheme will be insulated against external noise including new extraction equipment proposed on the adjacent site (44-46 Parade) approximately 10 metres from the site. That proposal included a noise survey for the proposed extraction system and this has been taken into consideration with the noise survey submitted. On the basis of the noise report and mitigation measures proposed, it is appropriate to condition that this proposal be carried out in accordance with the mitigation works set out within the report.

It is also noted that the site is within a town centre location with its many night time activities including takeaways and licensed premises. With any town centre living on upper floors, it is a common feature to be close to such uses. In taking this into account, the scheme has been designed to meet the noise standards contained within the British Standards Guidance.

Officers are therefore satisfied that the new third floor residential use would not be unduly harmed by adjacent uses.

The plans indicate that all bedrooms of the HMOs would have a source of light from an external window of the building, set back a sufficient distance from adjacent structures to allow an acceptable level of outlook for all future occupiers. The living space would also benefit from adequate light levels and outlook. The use of high levels of glazing also ensures that the scheme will benefit from adequate light and amenity levels.

#### Access and Parking

The application site does not benefit from any off street parking provision. Being sited within the town centre, there are good links to public transport with the site being in close proximity of local bus stops and walking distance of the nearby Leamington Spa railway station, offering potential occupiers of the site a choice of sustainable transport modes to the private car.

The provision of an additional 2 6 bed HMOs in this location has been assessed by the County Highways Officer and it is noted that site has permission for the conversion of the existing upper floors to a total of 4 x six bedroom flats. According to the development proposals, parking shall not be provided for the proposed flats.

Whilst the nearby streets of Warwick Street and Bedford Street are not located within a Residents' Parking Zone (RPZ), future occupants would not be entitled to resident parking permits to park in this area. However, the County Highways Officer has advised that the site would benefit from the ability to apply for permits relating to the L0 Residents Parking Zone which is a general parking zone on the periphery of the town centre. There is already a high level of demand within this parking zone and the additional units would put further pressure on limited parking availability. On this basis, a Unilateral Undertaking

has been requested to amend the Traffic Regulation Order for the property to omit it from the residents parking scheme, effectively making it a car free development.

Cycle storage is shown within the rear courtyard area, which can be secured by condition.

On the basis of the above, it is considered that subject to the submission of a Unilateral Undertaking to amend the Traffic Regulation Order to restrict the occupants applying for permits, the scheme would not be detrimental to highway safety or residential amenity by reason of parking stress.

### Ecology

The County Ecologist has raised no objection to the proposed development subject to the imposition of ecological advisory notes.

### Open Space

The proposal has been considered by the Open Space Team who have requested a contribution towards improvements to existing areas of open space within the town within a 500 metre radius of the site to mitigate for the additional potential pressure on open space as a result of this development. This can be secured by condition.

### **Conclusion**

The principle of development for the creation of 2 additional flats would be acceptable in accordance with Policy H6 of the Warwick Local Plan.

It is considered that the proposal does not result in harm to the amenity of the character of the area, Conservation Area and the amenity of neighbouring properties. It is also considered that, subject to the submission of a Unilateral Undertaking, the proposal would not result in harm to parking standards within the local area. Appropriate living standards for future occupants would be acceptable and the impact on local facilities can be mitigated through an open space contribution.

Subject to conditions to ensure appropriate living standards for future occupants and appropriate design standards for the external appearance the scheme is acceptable and permission should be granted.

### **CONDITIONS**

- 1 The development hereby permitted shall begin not later than three years from the date of this permission. **REASON:** To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawing(s) 5178/20C, 5178/21C, 5178/22C, 5178/23C, 5178/24C, 5178/25C, 5178/26C, 5178/27C, 5178/28C and 5178/29C

and specification contained therein, submitted on 22 September 2017.  
**REASON:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.

- 3 No development shall be carried out on the site which is the subject of this permission, until large scale details of the proposed glazed structure (including windows and a section showing the window reveal, heads and cill details), eaves, verges and rainwater goods at a scale of 1:5 (including details of materials) have been submitted to and approved by the Local Planning Authority. The development shall not be carried out otherwise than in strict accordance with such approved details. **REASON:** To ensure an appropriate standard of design and appearance within the Conservation Area, and to satisfy Policy HE1 of the Warwick District Local Plan 2011-2029.
- 4 Other than site clearance and preparation works no works shall commence on the construction of the development hereby permitted until samples of the external facing materials to be used have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. **REASON:** To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the locality in accordance with Policy BE1 of the Warwick District Local Plan 2011-2029.
- 5 Unless the Local Planning Authority certifies that suitable alternative provision has been made for the provision or improvement of open space within the catchment area of the application site in accordance with Policy HS4 of the Warwick District Local Plan 2011-2029:
  - (i) no development shall commence unless or until a scheme for such provision or improvement (identifying the size/extent, location and specification of the space and works) has been submitted to and approved in writing by the Local Planning Authority; and
  - (ii) the dwellings hereby permitted shall not be occupied until the scheme so approved has been implemented in strict accordance with the approved details.

**REASON:** To ensure the necessary infrastructure and facilities are provided in accordance with Policy HS4 of the Warwick District Plan 2011-2029.
- 6 The development hereby permitted shall proceed only in strict accordance with the recommendations of the submitted noise assessment and associated mitigation works. Internal noise levels for the proposed residential property must meet the 'Good' criteria set out in British Standard 8233 'Sound Insulation and Noise Reduction for Buildings' and any mitigation measures that are required to achieve this shall be installed and retained in perpetuity. Prior to the first

occupation of the building any necessary mitigation measures shall have been implemented in full accordance with the recommendations of the noise assessment and thereafter shall not be removed or altered in any way. **REASON:** To ensure that the premises are not used in a manner prejudicial to or likely to cause nuisance or disturbance to the occupiers of nearby properties in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.

- 7 The development hereby permitted shall not be occupied unless and until the external refuse storage areas for the development have been constructed or laid out, and made available for use by the occupants of the development in accordance with the approved details and thereafter those areas shall be kept free of obstruction and be available at all times for the storage of refuse associated with the development. No bins shall be left or stored in any other location other than on collection day. **REASON:** To ensure appropriate living conditions for future occupiers in accordance with BE1 and BE3 of the Warwick Local Plan 2011-2029.
  
- 8 The development hereby permitted shall not be occupied unless and until the identified cycle storage area for the development has been constructed or laid out, and made available for use by the occupants of the development in accordance with the approved details and thereafter those areas shall be kept available for use associated with the development. **REASON:** In the interest of sustainable development in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.

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