

Application No: W 09 / 0213

Registration Date: 27/02/09

Town/Parish Council:

Leamington Spa

Case Officer:

David Edmonds

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32 Kenilworth Road, Leamington Spa, CV32 6JE

Proposed change of use of rear wing from its lawful use of one 2 and one 1 bed flats (planning permission W2007/0777) to one 2 and one 1 bed mews dwellings, involving the alterations to the existing unauthorised two four bed dwellings together with the proposed retention of 3 car parking spaces and a proposed fence in the rear garden subdividing private from communal gardens
FOR Mr P Akhter

This application is being presented to Committee due to an objection from the Town Council relating to the proposed parking levels of the original proposal which it considers are inadequate. The final amended proposal is similar to the original proposal in respect of parking provision.

SUMMARY OF REPRESENTATIONS

Leamington Town Council: (Comments on original application. OBJECT - The proposal is contrary to Policy DP8 (Parking))

Public Response:

Comments on original application: Three letters of objections on following grounds:

- Retention of three extra parking spaces at rear would be harmful to the Conservation Area
- Retention of two town houses instead of two apartments would mean additional parking needs and space for additional parking is not available on the site without unacceptably harming the character and appearance of the Conservation area.

Comments on the revised application: The parking problem will not be solved by 1 extra space but it will have an impact on the conservation area. When car parking for 3 spaces in the rear garden was permitted, it was in compensation for the loss of 3 spaces in the front garden which was necessary to facilitate an effective landscaping scheme not to increase car parking on the site. The easiest solution for everyone is to go back to the approved plan. It is the developer who wants to keep some of the unauthorised internal changes, this should not mean that extra parking will need to be created outside as well.

Cllr Mrs De-Lara Bond: (*On original application*). The retention of 6 car parking spaces at the rear of the property instead of the lawful 3 spaces is unacceptable. The Planning Inspector, among other comments made clear the rear of this property was important from a conservation perspective. The retention of such a large hard standing surface area would detract from and NOT enhance the conservation area.

RELEVANT POLICIES

- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP8 - Parking (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)
- Vehicle Parking Standards (Supplementary Planning Document) 2007

RELEVANT PLANNING HISTORY

- **Mar 2004** (W2003.1881): Planning permission for change of use of nursing home to form 9 apartments – 34 Kenilworth Road.
- **July 2004** (W2004.0777): Planning application received for change of use of former Nursing Home to provide 7 apartments – 32 Kenilworth Road.
- **Jan 2005** (W2003.0899): Appeal dismissed against refusal of planning permission (in Oct 2003) for conversion & extension of former nursing home premises to form 19 self contained flats (instead of the 16 approved in total).
- **In 2005** planning permission (Ref. W05/0204) was granted for alterations to the landscaping and boundary treatment on the site frontage and for a new driveway and parking spaces in the rear garden of No. 32. The application was submitted to address shortcomings in the W2004/0777 and W2003/1881 permissions notably inadequate space for frontage landscaping and a slight under provision of parking. The planning permission was accompanied by a legal agreement which required the owner not to implement either of the earlier permissions without carrying out the external development.
- **Mar 2007**: Refusal of planning permission for retention of conversion of rear wing to form two mews dwellings (one 4 and one 3 bed) instead of two flats, (one 2 bed, one 1 bed) and for provision of additional rear parking and relocation of communal bin store -(W07/0588)
- **Mar 2008**: Refusal of planning permission for retention of conversion of rear wing to form two mews dwellings instead of two flats, and for provision of additional rear parking and relocation of communal bin store - alternative proposal - (W07/2034)
- **June 2008**: Dismissal of appeals against refusals of W07/0588 and W07/2034). In terms of conservation the internal conversion was found to harm the external appearance particularly in terms of the windows of the original villa and the design and proportion of the extensions. Also, both proposals for the relocation for the bin store were found to be unacceptable and the best solution is the internal bin store. The rear parking of 3 cars was found to represent a reasonable balance between enabling a more intensive use whilst retaining the character of a single dwelling. In terms of highway safety whilst the site was found to be reasonably sustainable it was found there is a long term significant local parking issue. Therefore it was concluded that there was insufficient parking provision for this further intensification of the development.
- **Aug 2009**: Appeal against the enforcement notice which alleged various unauthorised building operation was dismissed but enforcement notice varied to allow a 6 rather than 3 month period of compliance which expired on 27th February 2010.

Therefore the approved plans for the conversion of no. 32, Kenilworth Road to flats - application - W/05/0204. involved four 2 bed and three 1 bed units. Within the rear wing, it involved one 2 and one 1 bed flat and not the one 4 bed and one 3 bed houses that have been created.

KEY ISSUES

The Site and its Location

The appeal site is located approximately 750 metres to the north of the northern part of Leamington Spa town centre. Both no. 32 and 34, comprise detached Regency villas and are located on the eastern side of Kenilworth Road, to the south of its junction with Woodcote Road. The unlisted villas are similar in original design and appearance and stand within a row of 10 similar villas, 7 of which are listed buildings.

No. 32, in recent times was interrelated with 34 Kenilworth Road and was formerly known as 'Magnolia House Nursing home', which closed in circa 2002. Both properties have been converted into self contained residential units

Details of the Development

The application has arisen as a consequence of the rear wing of the property not having been developed in accordance with a planning permission W04/0777 for conversion of the then nursing home to 7 apartments approved in 2004 and W05/0204 for alterations to the proposed parking, landscaping and boundary treatment, in 2005. The lawful proposals involved four 2 bed and three 1 bed units with 3 car parking spaces at the rear to make up for those lost at the front in order to make space for an effective landscaping scheme adjacent to the front wall.

The unauthorised changes related to 2 mews houses being created instead of 2 flats within the rear wing of the building. It also related to the most of the rear yard being given over to hard standing and communal parking and to a bin store having been constructed in the front courtyard to the property.

In broad terms, the proposals involve the removal of the bin store and its relocation inside the building, the demolition of the extension, rearranging the accommodation internally and the proposed removal of most of the areas of extra hard standing.

Assessment

The main issue relates to whether the proposed development preserves the fine balance that the 2008 Inspector agreed had been achieved in the 2004 and 2005 plans between enabling a more intensive use of the conversion of the villa, yet still retaining the character of the property as a single dwelling, particularly in terms of limiting the hard standings and rear parking provision.

The original application proposals involved the retention of the vertical subdivision but with a reduction in the floor area of the two dwellings by removing the rear extension and internalising the bin store. It involved the proposed creation of two. 2 bedroom houses including the re-opening of the former window openings and habitable rooms provided over three floors. In terms of externals, the proposals involved creating 4 standard width spaces out of the 3 oversized spaces proposed in application W07/2034 together with 2 extra spaces at the north-east corner. This combination impinged on the both the width and the length of the approved communal garden.

A revised layout plan was submitted soon after the submission of the application showing the creation of 6 spaces in a hammer head parking layout taking up much of the originally proposed communal rear garden. This was said to have taken into account the views of Leamington Town Council which reflected the needs of local residents for more parking space to address the recognised parking problem.

A second revised plan showed the floor/ balcony line for the 2nd floor bedroom of unit 7 being set back 1 metre from the window to lessen the dominance of the floor effectively subdividing the window opening, but the extra bedroom on the first floor was to be retained. The plans showed the removal of two of the extra parking spaces but the creation of 4 standard width spaces out of the 3 oversized spaces. This still had the effect of a reduction in the size of the approved communal garden area. These plans were submitted to address conservation concerns regarding the subdividing of the windows openings and the neighbours regarding the over provision of car parking in the back garden.

These plans still involved the retention of a four bedroom in unit no 7, one more than the approved plan. Taking account local residents concerns, it was concluded that this remaining intensification, whilst small, would be significant, in the context of the local parking problem mentioned in the 2008 appeal decision. The applicant responded by falling back on the original application parking plan - submitting a 2nd revised plan showing 3 oversized spaces but the same amount of parking as 4 standard spaces in the original proposal. In terms of internals, this 2nd revised plan proposed an enlargement of the first floor living room taking up the proposed bathroom space and the replacement of the proposed bedroom 2 by the relocated bathroom resulting in a 1 bedroom house. A third revised plan was submitted for the external layout which show a 7.7 metre long car park with 3 standard spaces and a courtyard to the dwelling no. 7 reduced from 3 to 2.7 metres. This would result in the creation of a 12.5 metre long communal garden. This change took account of continued adverse comments, regarding the remaining extra parking impinging on communal garden space. The communal garden would also run the full width of the site with the private garden dwelling no. 6 being reduced in length to 9.5 metres from the rear elevation. These final set of proposals would result in substantially the same rear layout at the 2005 approved layout plans. This layout was recognised in the 2008 appeal decision as striking the right balance between conservation and parking needs. Whilst the proposed rear garden is still different from the original proposals notably by providing a private side garden to unit 6, separated from the car park by a fence, I consider that this is an acceptable compromise because of the reasonable size and broadly rectangular shape of the proposed communal garden.

The plan also sets out the concept landscaping scheme which would include low to medium height clumps of shrubs in both the communal garden adjacent to the eastern edge of the car park and the private garden of unit 6 but behind the retained close boarded fence. The front would also have a block of low/ medium shrubs in the south-east corner and in the space created by the proposed removal of the communal bin store.

In assessing these final plans, the starting point is whether there are new material considerations sufficient to set aside the Inspector's 2008 decision which established the fine balance between parking needs and conservation. Now that the planning application does not involve an increase in the number of bedrooms, there is no additional parking demand above that previously approved. The only planning policy guidance that has changed is the introduction and implementation of the Vehicle Parking Standards adopted as SPG in 2007.

The standards involve a maximum of 1 space for 1 bed flats or houses and 1.5 spaces for 2 bed flats or houses. For the lawful scheme (application W04/0777) which comprises four 2 bed and three 1 bed units, this equated to 9 spaces. The final revised proposals still involves the same number of bedrooms albeit, the only difference being now that 2 of the units are houses. The final site layout plan proposes 8 spaces. In view of the recognition by the 2008 inspector that this is a reasonably accessible and sustainable site, in my opinion it is appropriate not to require the maximum standard. In this context, the preservation of the rear communal garden which maintains the character of a single dwelling is also recognised as an important objective. Therefore there is no good reason to increase parking levels in the rear garden.

In conclusion, the final amended proposals offer the appropriate balance between intensifying the use of the site by catering for market demands for houses whilst protecting the character and appearance of the villa as a single dwelling thereby maintaining the distinctive character of villas fronting Kenilworth Road.

RECOMMENDATION: GRANT, subject to the conditions listed below.

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of 6 months from the date of this permission. **REASON :** Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 requires time limits on the implementation of planning permissions. In this case the proposed development represents a compromise which allows some of the development which has taken place without planning permission to be retained. Given that all of the unauthorised development could be the subject of formal enforcement action requiring the implementation of the approved plans it is appropriate to have a strict time limit for the implementation of this compromise proposal.
- 2 The planning permission hereby granted shall be implemented in accordance with the approved amended plans no.1253/02d relating to external layout and 1253/04d relating to floor plans and 1253/05c relating to elevations. **Reason:** For avoidance of doubt and to clarify the scope of the planning permission.
- 3 Within 12 months of the date of this permission the concept landscaping scheme illustrated on the site layout plan 1253/02d and the associated planting schedule shall be implemented. Any plants that within a period of 5 years of planting die, become diseased or damaged beyond recovery shall be replaced during the planting season following their demise with plants of a similar species and size. **Reasons.** The implementation of the soft landscaping is necessary to mitigate the current harm to the character and appearance of the Conservation Area resulting from large extent of buildings and hard surfaces on the site and to provide an adequate level of amenity both for current occupants of the site and an outlook for neighbouring properties. It would thereby accord with WDLP polices DAP8, DP1 and DP2.
- 4 The floor plans of the units 6 and 7 shall not be changed so as to increase the numbers of bedrooms of these units from the proposed 2 bedrooms in unit 6 and 1 bedroom in unit 7. **Reason:** The retention of these units as houses as opposed to their lawful use as flats is only acceptable if it does not result in the increase in the number of

bedrooms over and above what was authorised for this part of number 32 Kenilworth Road in application W2004/0777. An increase in bedroom numbers may lead to a need for the provision of more car parking spaces in the back garden which would harm the character and appearance of the Conservation Area. The lack of provision in this eventuality may result in unacceptable harm to highway safety. The site is developed to maximum capacity in the context of its environmental constraints.

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:

The final amended proposals offer the appropriate balance between intensifying the use of the site by catering for market demands for houses whilst protecting the character and appearance of the villa as a single dwelling thereby maintaining the distinctive character of villas fronting Kenilworth Road. The final amended plans achieve this without increasing bedroom numbers over and above the approved plans for planning permission W2004/0777 and avoids the potential need to provide more parking spaces which might cause unacceptable harm to highway safety. The proposed development thereby complies with Warwick District Local Plan 1996 -2011 policies DP1, DP2, DP6 and DAP8 together with the Vehicle Parking Standards SPD, 2007.
