

Planning Committee: 27 March 2018

Item Number: **11**

Application No: [W 18 / 0029](#)

Town/Parish Council: Leamington Spa
Case Officer: Lucy Hammond

Registration Date: 08/01/18

Expiry Date: 05/03/18

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36a Lillington Road, Leamington Spa, CV32 5YZ

Change of use from 6-bed apartment (Use Class C3) to 6-bed apartment for use as House in Multiple Occupation (Use Class C4) together with proposed demolition of pre-fabricated garage. FOR Mr B Gill

This application is being presented to Committee due to the number of objections received.

RECOMMENDATION

That planning permission is granted subject to the conditions listed at the end of this report.

DETAILS OF THE DEVELOPMENT

Planning permission is sought to convert the first floor of the building (No.36a), which is currently a single flat, to a 6-bed HMO. The proposals also include the demolition of an existing detached pre-fabricated garage to the rear of the building to facilitate the addition of one car parking space.

THE SITE AND ITS LOCATION

The application site comprises a semi-detached two storey building which is currently split into two flats; No.36 on the ground floor and No.36a on the first floor. The building occupies a corner position at the junction of Lillington Road (to the front) and Wathen Road (to the side). An existing detached pre-fabricated garage sits at the end of the rear garden, fronting onto Wathen Road and a brick boundary wall encloses the south facing side boundary, behind which sits a garden area for the application building.

The site is surrounded on all sides by residential properties and is within the Royal Leamington Spa Conservation Area.

PLANNING HISTORY

W/17/1840 - Change of use of No. 36 (3no bedroomed HMO (Use Class C4)) and No.36a (5no bedroomed flat (Use Class C3)) to 8no. studio flats and 3no 1no bedroomed flats. Demolition of part of & reduction in height of the boundary wall fronting Wathen Road and the creation of a new access – Withdrawn by applicant

W/17/1546 - Change of use of No.36 & 36a to a 12no. bedroomed House in Multiple Occupation (HMO) (Use Class Sui Generis) & at ground floor 1no. 1no bedroomed flat – Withdrawn by applicant

It is important to note that both applications were withdrawn primarily because the applicant wished to make amendments to the proposals which represented a departure from the original submission, such that they necessitated a new application and could not be dealt with as amendments to the current scheme. The relevant amendments were largely prompted by concerns being raised by officers about the level of parking for the proposed residential uses.

RELEVANT POLICIES

- National Planning Policy Framework
- The Current Local Plan
- H0 - Housing (Warwick District Local Plan 2011-2029)
- H1 - Directing New Housing (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)
- TR3 - Parking (Warwick District Local Plan - 2011-2029)
- HS4 - Improvements to Open Space, Sport and Recreation Facilities (Warwick District Local Plan 2011-2029)
- HE1 - Protection of Statutory Heritage Assets (Warwick District Local Plan 2011-2029)
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets (Warwick District Local Plan 2011-2029)
- Guidance Documents
- Open Space (Supplementary Planning Document - June 2009)
- Vehicle Parking Standards (Supplementary Planning Document)

SUMMARY OF REPRESENTATIONS

Leamington Spa Town Council: No objections

WCC Highways: No objections

Health & Community Protection (Environmental Sustainability): No objections

Waste Management: No objections

Private Sector Housing: No objections

Open Space team: No objections and no financial contribution requested

Public response: 22 letters of objection received (from 17 individuals) raising the following material planning considerations:

- Concerns about parking

- Concerns about adequate waste storage facilities
- There will be additional traffic generated to and from the site
- There will be additional noise and disturbance as a result of the proposed use
- The proposals would be overdevelopment of the site
- This would result in the loss of an apartment for which there is a need in this part of the town
- The proposal would change the character of the area
- Concerns about drainage particularly surface water run off
- Concerns about pedestrian safety

Other non-material considerations were also raised including:

- Reference made to the type of tenant such a development might attract
- The building would be better renovated and retained as flats
- This re-submission attempts to circumvent issues previously raised when earlier applications were withdrawn
- There has been no engagement between the developer and the local community
- Concern about what will happen to the post box which is near the garage proposed to be demolished

ASSESSMENT

The main issues to consider are:

- The principle of development
- The impact on the character of the area and street scene
- The impact on heritage assets (conservation area)
- The impact on neighbouring residents
- Access, car parking and highway safety
- Other matters

The principle of development

Policy H6 of the Local Plan 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 100m radius of the application site does not exceed 10% of total dwelling units;
- b) the application site is within 400m walking distance of a bus stop;
- c) the proposal does not result in a non-HMO dwelling being sandwiched between two HMO's;
- d) the proposal does not lead to a continuous frontage of three or more HMOs; and
- e) adequate provision is made for the storage of refuse containers whereby -
 - i. the containers are not visible from an area accessible by the general public, and
 - ii. the containers can be moved to the collection point along an external route only.

The proposed HMO would be located in a predominantly residential area and the 100m radius calculation carried out for the proposal concludes that the total

number of HMO's would be 1.6% of the total number of dwelling units. The policy is therefore complied with in this respect.

The application site is within 400m walking distance of a bus stop, the proposal would not result in a non-HMO dwelling being sandwiched between two HMO's, the proposal would not lead to a continuous frontage of three or more HMO's and adequate provision would be made for storage of refuse containers in accordance with (e) of the policy.

Overall, the proposal accords with the provisions of Policy H6 and therefore the development is considered acceptable in principle subject to an assessment being made of the other relevant material considerations which are set out below.

The impact on the character of the area and street scene

No external alterations are proposed to the building to facilitate the change of use of the upper floor flat and as such there would be no harm caused to the visual amenities of the surrounding area. The key change in the visual appearance of the site would be the loss of the pre-fabricated garage which is to be replaced with an additional car parking space. The garage is of little architectural merit and therefore its loss would not result in any harm to the character of the area. The development is therefore considered to comply with Policy BE1 of the Local Plan.

The impact on heritage assets (the conservation area)

Considerable importance and weight should be given to the duties set out in the Planning (Listed Buildings and Conservation Areas) Act 1990, when making decisions that affect listed buildings and conservation areas respectively. These duties affect the weight to be given to the factors involved. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, "In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

Policy HE1 of the Local Plan expects development proposals to have appropriate regard to the significance of designated heritage assets. Where any potential harm may be caused, the degree of harm must be weighed against any public benefits of the proposal.

Since there are no changes proposed to the building itself to facilitate the change of use officers are of the opinion that the proposal would have a neutral impact on the character and appearance of the conservation area. Whether it is used as a single flat or a HMO should have no material difference to its impacts on the physical appearance and character of the conservation area. One of the key changes in this application compared to an earlier withdrawn application is the retention of the boundary wall along Wathen Road which was previously proposed for partial demolition and a reduction in the height. It is now proposed to be left as per the existing situation with only the pre-fabricated garage proposed for demolition and replaced with a single car parking space. In character and visual terms this is considered to be preferable; the removal of

the garage which is of little architectural merit would be a visual improvement and the retention of the wall would maintain the existing character of the conservation area.

With the rear garden being retained as an outdoor amenity area, previously raised issues of the impact on the character of the area that would have resulted through its loss and conversion into a car park have now been addressed. Overall therefore, the development is considered acceptable in terms of its impact on the character and appearance of the conservation area and officers consider that this development would preserve and enhance the conservation area. The development is therefore considered to accord with Policy HE1 of the Local Plan.

In making this assessment, regard has been had to the weight that should be given to the desirability of preserving the special interest and setting of the heritage asset.

The impact on neighbouring residents

No physical works are proposed that would cause harm to the amenity of nearby neighbouring properties in terms of overbearing, overshadowing or overlooking and the removal of the garage and the opening up of this part of the site, replacing the garage with a car parking space instead would be an improvement. In terms of the use, with the existing flat now proposed to be used as a HMO for up to 6 people as opposed to a single flat, there are no objections raised to the development by the Environmental Health and Private Sector Housing teams. Moreover the proposal complies with Policy H6 which seeks to protect both the character of residential areas and the private amenity of the closest residential properties. Overall, officers do not consider that the use of this building as a HMO would result in material harm to the amenity of other neighbouring dwellings such as to justify a refusal of permission. The proposals are therefore considered to comply with Policy BE3 of the Local Plan.

Access, car parking and highway safety

Previous applications were withdrawn partly due to concerns not only being raised about the sub-standard level of parking but also the physical layout of the parking spaces and how it was envisaged this would work in practice. It is important to acknowledge also that the previous applications proposed a much more intense form of development than this current application proposes, i.e. multiple units (flats, HMO's) which cumulatively necessitated the need for a higher number of car parking spaces than the current proposal requires.

With this in mind therefore consideration has been given to the differences between this proposal and previous applications and the County Highways Authority has undertaken a comprehensive review of these latest proposals and raised no objections.

In terms of the existing situation the two garages present on site are assigned to each of the flats, providing a total of two off-street parking spaces within the site. The level of parking currently provided for the existing use at 36a falls below the required standards by one space although it is likely that the one car

parking space that cannot be accommodated within the site, is accommodated on-street.

The proposed 6-bed HMO would require 3 parking spaces to be provided, an increase of one additional car parking space compared to the existing use at the site. As only one off-street space will be accommodated within the site, this would result in two car parking spaces being accommodated on-street, an increase of one additional on-street space compared to the existing use.

Unrestricted on-street parking is available along Wathen Road, which could accommodate the one additional parking space generated by the development proposals. The Highway Authority acknowledges that concerns have been raised regarding the high demand for on-street parking along Wathen Road and adjacent roads however, the development proposals will only increase the demand for on-street parking by one vehicle compared to the existing use, in accordance with the adopted Parking Standards. It is unlikely that one additional vehicle parking on-street would have a detrimental impact on public highway safety.

It is also of note that the proposed parking space is more likely to be used by occupants than might be the case with the existing garage, given the inconvenience of having to open and close the garage doors and the restricted dimensions of a garage. As a result, the actual impact on parking on street may be little different from the existing situation. A condition is also recommended to require details of a covered cycle store to be submitted for approval.

Reference has been made to the existing flat being described as a 6-bed when the previous application referred to it as a 5-bed. In parking terms this is of little relevance because the parking standards (for C3 dwellings) require 2 spaces whether the residential unit provides 4, 5 or 6 bedrooms.

It is also important to note that this application only concerns 36a (the upper floor of the building) and therefore, while objections have been received from concerned residents who question the next step if this is approved, officers can only consider the proposals currently before the Local Planning Authority. If and when a subsequent application were to be submitted relating to the ground floor of the building this would be assessed on its own merits and one of the key considerations would be the level of parking. While the concerns of local residents are noted and understood, what may happen to the ground floor of the building in the future cannot form part of the considerations at this time.

Other matters

Ecology

Given the scale and nature of the existing structure, officers consider that a bat note, attached to any forthcoming permission, would suffice for the purposes of ensuring that no protected species are harmed as a result of the removal of this structure and its replacement with a car parking space. The development is considered to accord with Policy NE2 of the Local Plan.

Open Space

In comparing the existing use against the proposed use the Open Space team has concluded there would be no requirement for a financial contribution to be made. The proposals are therefore considered to accord with Policy HS4 of the Local Plan.

Provision of refuse storage

The Waste Management team has raised no objection to this application stating that the current waste bin / collection service at the premises will remain unchanged. That said, a condition is recommended that requires the submission of further details showing the provision of the necessary bin storage within the site. There is space for such a storage facility within the rear garden and the development is therefore considered acceptable in this regard.

Low Emissions Strategy

Policy NE5 seeks to permit development proposals that ensure the district's natural resources remain safe, protected and prudently used. To that end, development proposals will be expected to demonstrate that they (*inter alia*) do not give rise to soil contamination or air, noise, radiation, light or water pollution where the level of discharge, emissions or contamination could cause harm to sensitive receptors.

In accordance with the requirements of the policy, and where development proposals would lead to an increase in vehicular movements, a standard condition should be applied to any forthcoming permission requiring a scheme which satisfies the requirements set out in the Council's adopted Low Emission Strategy Guidance. It is proposed to attach this condition in the event permission is forthcoming and therefore the development is acceptable in this regard and accords with Policy NE5.

Removal of the garage including asbestos roof

The Environmental Health Officer has confirmed that to facilitate the safe removal of the garage effective controls would need to be put in place in accordance with The Control of Asbestos Regulations 2012 (section a14) and disposed of correctly at a licensable waste site and not reused on the land. However this is not a matter for the planning process and is covered under separate legislation. Overall there are no objections from an environmental health point of view

Third party comments

Several references have been made to earlier applications at the site, with concerns raised about the potential future use of the building and the resulting impacts this may have. It is only possible to assess the proposals currently before the Local Planning Authority, which in this case, refer to the change of use of only the upper floor of the building from a single flat to a 6-bed HMO. The visual and neighbour amenity impacts have been considered above as has the car parking arrangement and based on the current proposals, the development is in accordance with the relevant provisions of the Development Plan. Any future developments at the site would therefore be subject to their own separate planning application which would be assessed in the usual way and in accordance with the Development Plan.

SUMMARY/CONCLUSION

The principle of development, to change the use of the existing flat to a 6-bed House in Multiple Occupation, is acceptable in accordance with the provisions of Policy H6 of the Local Plan. The removal of the pre-fabricated garage which is of no architectural merit would result in an improvement to the general character and appearance of the surrounding area and street scene and the proposals would preserve the character and appearance of the Royal Leamington Spa Conservation Area. It is not considered there would be any detriment to highway safety and the level of car parking provision is considered, on balance, to be acceptable.

Having regard to all of the above considerations, it is therefore the opinion of Officers that the development accords with the aforementioned policies of the Warwick District Local Plan 2011-2029 and as such it is recommended that planning permission be approved subject to the conditions set out below.

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 drawings LR36A_02 and LR36A_03 and specification contained therein, submitted on 8 January 2018 **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 part of the development hereby permitted shall commence until details of hard landscaping works have been submitted to and approved in writing by the Local Planning Authority. Details of hard landscaping works shall include boundary treatment (including full details of any proposed boundary walls, railings and gates to be erected, specifying the colour of the railings and gates); footpaths; and hard surfacing, which shall be made of porous materials or provision shall be made for direct run-off of water from the hard surface to a permeable or porous area. The hard landscaping works shall be completed in full accordance with the approved details within three months of the first occupation of the development hereby permitted. **REASON:** To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies BE1, BE3 and NE4 of the Warwick District Local Plan 2011-2029.
- 4 The development hereby permitted shall not be occupied until a scheme which satisfies the requirements set out in the Council's adopted Low Emission Strategy Guidance for Developers (April 2014) has been submitted to and approved in writing by the Local Planning Authority and implemented in full accordance with the approved details. The

approved scheme shall be retained and maintained as such at all times thereafter. **REASON:** To ensure mitigation against air quality impacts associated with the proposed development in accordance with Policy NE5 of the Warwick District Local Plan.

- 5 The development hereby permitted shall not be occupied until a bin store and covered cycle store have been provided in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority. The cycle and bin store provided shall thereafter be retained as such in perpetuity. **REASON:** In the interests of visual and residential amenities and character of the area having regard to Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.

- 6 The development hereby permitted shall not be occupied until the garage has been demolished and the parking space created as shown on drawing LR36A_03. The parking space shall thereafter be retained as such in perpetuity. **REASON:** In the interests of highway safety having regard to Policies TR1 and TR3 of the Warwick District Local Plan 2011-2029.
