

**Planning Committee:** 20 September 2006

**Item Number:** 13

**Application No:** W 06 / 1070

**Registration Date:** 19/06/06

**Town/Parish Council:** Leamington Spa

**Expiry Date:** 14/08/06

**Case Officer:** Rob Young  
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**Homestead House (Plumbbase Centre), Trinity Street, Leamington Spa,  
CV32 5GY**

Change of use to dance school FOR Miss Noone

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

**SUMMARY OF REPRESENTATIONS**

**Town Council:** No objection. Concern expressed regarding the safety aspect of increased road usage and on-street parking.

**Neighbours:** 28 letters of objection have been received from neighbouring residents. These raise objection on the following grounds:

- the proposed commercial use would not be in keeping with this predominantly residential area;
- this is not a commercial area, it is primarily a residential area, with only 2 other commercial operations in the immediate vicinity of the application site;
- the existing warehouse is a quiet neighbour;
- the dance school would be open significantly longer and later into the evening than established commercial premises in the locality;
- no other commercial property in the vicinity is open after 5.30pm and the existing warehouse was closed on the Sunday;
- the streets in this area are quiet at night, and 160 people leaving the premises at a late hour will undoubtedly impact on privacy;
- the size of the bar and seating areas indicates a significant cafe / bar function;
- concern that this could change into a nightclub;
- the proposal could exacerbate problems with late night drink-related offences in the area;
- there is no other licensed property in the vicinity;
- the application refers to a modest number of people attending classes, but the plans indicate capacity for up to 160 people;
- in view of the cost of the building and other overheads, this would have to be a significant business attracting large volumes of people in order to break even;

- the application refers to the primary focus of the business being therapy for the elderly and participation for schools yet a bar is prominently featured on the plans;
- the building has not been specifically designed to achieve noise insulation against music being played within the premises and no details of sound-proofing have been provided;
- complaints have been made in the past about factory noise emanating from the application property as it was never designed to be sound proof;
- the premises closely adjoin residential properties in Binswood Avenue;
- noise and disturbance to neighbouring residents from music being played within the premises and from increased comings and goings of people late into the evening;
- necessary ventilation and air conditioning units will make considerable noise in close proximity to dwellings;
- increased traffic on already congested residential streets;
- inconvenience and disturbance to residents from increased car parking and vehicle movements in surrounding residential streets;
- detrimental to highway safety;
- visitors to the premises will not park in car parks but in surrounding residential streets, exacerbating existing parking problems;
- the application states that some pupils of the studio will be 'school children who will walk during the daytime' yet the traffic chaos in Binswood and Beauchamp Avenues at the start and end of each school day would suggest that many school children do not walk to or from their activities at all; and
- insufficient details have been provided to assess the impact of the proposals.

**Conservation Area Advisory Forum:** Significant concern was expressed that there is a bar in these premises and that it could soon become a nightclub or entertainment venue at night which is situated right in the midst of a residential area. Concerns were also expressed about noise emitting from the property.

**WCC (Highways):** No objection.

**WDC Environmental Health:** My only concern with this application would be the light weight roof to at least part of the building. The application makes comment that the music will be low level. To avoid the premises changing hands and the use / music levels increasing I would recommend the use be limited to that of the applicant. If a condition can be agreed by discussion to restrict music to pre-recorded and/or use of piano only, then this may also assist in controlling nuisance. Alternatively, suggest a condition to control noise levels measured at the nearest noise sensitive property.

### **RELEVANT POLICIES**

- (DW) ENV3 - Development Principles (Warwick District Local Plan 1995)

- (DW) ENV6 - Protection and Enhancement of Conservation Areas (Warwick District Local Plan 1995)
- (DW) ENV8 - New Development within Conservation Areas (Warwick District Local Plan 1995)
- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011 Revised Deposit Version)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011 Revised Deposit Version).
- DP7 - Traffic Generation (Warwick District Local Plan 1996 - 2011 Revised Deposit Version)
- DP8 - Parking (Warwick District Local Plan 1996 - 2011 Revised Deposit Version)
- DAP10 - Protection of Conservation Areas (Warwick District 1996 - 2011 Revised Deposit Version)
- SC7 - Directing Community Facilities (Warwick District Local Plan 1996 - 2011 Revised Deposit Version)

## **PLANNING HISTORY**

There is no relevant planning history.

## **KEY ISSUES**

### **The Site and its Location**

The application property is situated on the northern side of Trinity Street, close to the junction with Beauchamp Road. The site is within the Leamington Spa Conservation Area and adjacent to Leamington Town Centre. The town centre boundary runs down the middle of Trinity Street.

The application premises fill the whole of the application site, with no external yard area. The application relates to the ground floor of the building, which is currently vacant, but was last used as a plumber's merchants. The first floor is used as an accountant's office.

The surrounding area is predominantly residential, although there is a cluster of commercial premises around the junction with Beauchamp Road. This includes the application property, a motor parts retailer adjoining to the east, and a tyre fitters opposite. The site also abuts the boundary of residential properties in Binswood Avenue to the north and west. The application premises are situated close to the adjacent dwellings in Binswood Avenue. There are no dwellings fronting onto this part of Trinity Street. This part of the street provides rear vehicular access to the dwellings in Binswood Avenue and Beauchamp Avenue.

### **Details of the Development**

The application proposes a change of use from a plumber's merchants to a dance school. No external alterations are proposed.

Internally, the application proposes to provide a dance floor measuring 10m by 12m, together with seating areas, a bar and a studio.

The proposed hours of use are 10am to 11pm. The maximum number of people anticipated to be on the premises at any one time is 50-100.

### **Assessment**

I consider that the main issues relevant to the consideration of this application are as follows:

- compliance with local plan policy for the location of community facilities;
- the impact of the proposals on the living conditions of nearby residents; and
- parking and highway safety.

#### Compliance with Local Plan Policy for the Location of Community Facilities

Local Plan Policy SC7 directs community facilities to town centres. Where no suitable town centre sites are available, the policy states that a sequential approach will be adopted, first considering sites adjacent to the town centre. The applicant has submitted a supporting statement that confirms that she has viewed approximately 20 properties, primarily within the town centre, which were not considered suitable for the proposed dance hall for various reasons including their size and restrictive layout. In my view the applicant has satisfactorily demonstrated that there are no suitable premises within the town centre that could accommodate the proposed dance school. The application site adjoins the town centre boundary and therefore represents the next best location in policy terms. Therefore I am satisfied that the proposal is in accordance with Policy SC7.

#### Impact on Living Conditions of Nearby Residents

In my view, the assessment of the impact of the proposed dance school on the living conditions of nearby residents is finely balanced. On the one hand, the site is within a predominantly residential area and the premises closely adjoin neighbouring dwellings. However, on the other hand, the premises were formerly used for commercial purposes and form part of a small cluster of commercial

premises situated on a part of Trinity Street that is not fronted by dwellings. This part of the street does, however, provide rear vehicular access to the houses in Binswood Avenue and Beauchamp Avenue, which are close to the site, and the application premises adjoins the gardens of Nos. 34 and 36 Binswood Avenue, and is very close to those dwellings.

Nevertheless, I note that, whilst Environmental Health have raised some concerns regarding the potential for noise nuisance, they have not formally objected to the application. Furthermore, they have suggested conditions that could control noise from the proposal. The applicant has submitted a supporting statement and a further letter providing assurances that the proposed dance school will not be operated in a manner that would cause noise and disturbance to neighbouring dwellings. I do have some reservations about the proposed bar area and the extent of the seating areas, but the applicant has confirmed that these are necessary for occasions such as medal tests, demonstrations and performances, which will be attended by parents, relatives and friends who will require space to sit and spectate.

Having considered this issue carefully, taking into account the assurances given by the applicant and the precise details of how the proposed dance school would operate, and subject to appropriate conditions, I am satisfied that the proposal would not result in undue noise and disturbance for nearby dwellings. In order to satisfactorily limit the impact of the proposal, I recommend that any planning permission be personal to the applicant, and that it be subject to conditions limiting the hours of use and limiting the noise from the premises.

#### Parking and Highway Safety

The Town Council and local residents have raised significant concerns regarding the impact of the proposals on parking in surrounding streets and highway safety. However, there has been no objection to the proposal from the highway authority and therefore I consider that the proposal would be acceptable in terms of highway safety.

The proposal would undoubtedly increase parking on surrounding residential streets. Local residents have stated that there are serious problems with on-street parking in the area. However, the applicant has referred to the close proximity of the site to the Covent Garden (300m walk) and Chandos Street (450m walk) car parks, and they have submitted a survey of parking on surrounding streets to back up their argument that there are usually sufficient vacant on-street spaces to accommodate users of the proposed dance school. However, it may be that users of the dance school would be unlikely to park in the public car parks if there is on-street parking closer to the premises. Furthermore, the impact on parking in surrounding streets is likely to be significantly greater for the dance school compared with the existing use of the premises as a plumber's merchants. This will cause some degree of additional

inconvenience and disturbance for nearby residents. However, in the absence of an objection from the Highway Authority on highway safety grounds, I do not consider that the impact on parking would be so harmful that it would warrant the refusal of this application.

#### Other matters

In my view, the proposed dance school use would preserve the character and appearance of the Conservation Area. The proposal is to change from one commercial use to another and therefore I consider that the impact on the Conservation Area would be neutral.

The applicant has stated that they will not install air conditioning at the premises.

#### **RECOMMENDATION**

GRANT, subject to the conditions listed below.

#### **CONDITIONS**

- 1 The development hereby permitted must be begun not later than the expiration of three years from the date of this permission. **REASON** : To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the approved drawing(s) C.BALLROOM/1, and specification contained therein, submitted on 19 June 2006, unless first agreed otherwise in writing by the District Planning Authority. **REASON** : For the avoidance of doubt and to secure a satisfactory form of development in accordance with Local Plan Policy ENV3.
- 3 The level of noise from these premises measured one metre from the facade of any noise sensitive premises shall not exceed the background level by more than 3dBA. **REASON** : To protect the amenities of surrounding properties, in accordance with Policy ENV3 of the Warwick District Local Plan.
- 4 The premises shall be used as a dance school and for no other purpose including any other purpose in Class D1 of Part D of the Schedule to the Town and Country Planning (Use Classes) Order 1987, (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification. **REASON** : Other uses within this Use Class may not be appropriate in these premises by reason

of the close proximity to neighbouring dwellings.

- 5 The use of the premises for the purposes hereby permitted shall be restricted to the hours of 10am and 11pm. **REASON** : To protect the amenities of surrounding properties, in accordance with Policy ENV3 of the Warwick District Local Plan.
- 6 The use hereby permitted shall be carried on only by Ms Mary Noone and on the discontinuance of her occupancy of the premises the use hereby permitted shall cease. **REASON** : Since permission for the development would not normally be granted other than in the special circumstances put forward by the applicant.

### **INFORMATIVES**

For the purposes of Article 22 of the Town and Country Planning (General Development Procedure) (England) (Amendment) Order 2003, the following reason(s) for the Council's decision are summarised below:

In the opinion of the District Planning Authority, the proposed development would have an acceptable impact on the living conditions of nearby dwellings and would not give rise to adverse effects in terms of parking, highway safety or noise that could justify a refusal of permission. Furthermore, it is considered that the proposed change of use would preserve the character and appearance of the Conservation Area. The proposal is therefore considered to comply with the policies listed.

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