

**Planning Committee:** 24 June 2014

**Item Number:** **14**

**Application No:** W 14 / 0648

**Town/Parish Council:** Leamington Spa  
**Case Officer:** Rob Young

**Registration Date:** 02/05/14

**Expiry Date:** 27/06/14

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**36 Warwick Street, Leamington Spa, CV32 5JZ**

Change of use of existing second floor flat to form 3 residential flats, to include internal and external alterations FOR Yarnold Properties Ltd

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This application is being presented to Committee because previous applications for similar development on this site have been determined by Committee.

**RECOMMENDATION**

Planning Committee are recommended to GRANT planning permission, subject to conditions.

**DETAILS OF THE DEVELOPMENT**

The application proposes a change of use of the existing second floor flat to form 3 flats, including associated internal and external alterations. The internal alterations include the removal of existing walls and doors and the installation of new walls and doors. The external alterations include the insertion of new windows and rooflights and the bricking up of an existing window.

The plans also show a change of use and internal and external alterations to the basement, ground and first floors of the building. However, these changes have already been approved and therefore do not form part of the current application.

The application is accompanied by a Design and Access Statement, Heritage Statement, Sustainable Buildings Statement, Viability Statement and an Energy Report.

**THE SITE AND ITS LOCATION**

The application site relates to a three-storey plus basement Regency style building located on the southern side of Warwick Street, on the corner with Windsor Street. The building is Grade II Listed and is located within Leamington Town Centre and the Royal Leamington Spa Conservation Area.

## **PLANNING HISTORY**

In 1986 planning permission was granted for "Demolition of kitchen and erection of a replacement kitchen" (Ref. W86/0942).

In February 2013 planning permission and listed building consent were granted under delegated powers for "Change of use of club premises and second floor flat to a ground floor restaurant (Use Class A3), ancillary basement function suite and six self-contained flats on first and second floor levels. Works to include associated internal and external alterations" (Refs. W12/1595 & W12/1596LB).

In September 2013 planning permission was refused under delegated powers for "Proposed change of use of private club premises at basement and ground floor level to 5 residential flats and one mews type dwelling. Development to include internal and external alterations" (Ref. W13/0977). The reason for refusal related to the failure to provide any affordable housing. An associated application for listed building consent was approved at the same time (Ref. W13/0978LB).

In December 2013 planning permission was refused by Planning Committee for "Proposed change of use of private club premises at basement and ground floor levels to 5no. residential flats and 1no. mews type dwelling. Development to include internal and external alterations" (Ref. W13/1437). The reasons for refusal were: (1) Failure to provide any affordable housing; and (2) Failure to provide on-site renewable energy production.

In March 2014 planning permission and listed building consent were granted by Planning Committee for "Proposed change of use of basement, ground floor and first floor private club premises to eight self-contained flats and one mews dwelling; external alterations; and alterations to existing second floor flat" (Ref. W14/0120). This was subject to a Unilateral Undertaking to revoke planning permission no. W12/1595.

The result of the above recent history is that planning permission and listed building consent exist for the basement, ground and first floors to be converted into 9 dwellings, with the second floor to remain as a single flat.

The current planning application was submitted with an associated application for listed building consent (Ref. W14/0649LB). This is the subject of another item on this agenda.

## **RELEVANT POLICIES**

- Warwick District Local Plan 2011-2029 Publication Draft - published April 2014, in particular relevant policies relating to affordable housing: DS2, HO & H2.
- Residential Design Guide (Supplementary Planning Guidance - April 2008)
- Affordable Housing (Supplementary Planning Document - January 2008)
- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)

- DAP6 - Upper Floors within Listed Buildings and Conservation Areas (Warwick District Local Plan 1996 - 2011)
- DP3 - Natural and Historic Environment and Landscape (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)
- DP9 - Pollution Control (Warwick District Local Plan 1996 - 2011)
- DP11 - Drainage (Warwick District Local Plan 1996 - 2011)
- DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)
- DP15 - Accessibility and Inclusion (Warwick District Local Plan 1996 - 2011)
- UAP1 - Directing New Housing (Warwick District Local Plan 1996 - 2011)
- SC11 - Affordable Housing (Warwick District Local Plan 1996 - 2011)
- SC13 - Open Space and Recreation Improvements (Warwick District Local Plan 1996 - 2011)
- DAP4 - Protection of Listed Buildings (Warwick District Local Plan 1996 - 2011)
- DAP5 - Changes of Use of Listed Buildings (Warwick District Local Plan 1996 - 2011)
- DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)
- DAP7 - Restoration of Listed Buildings (Warwick District Local Plan 1996 - 2011)
- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Vehicle Parking Standards (Supplementary Planning Document)
- Open Space (Supplementary Planning Document - June 2009)
- National Planning Policy Framework

## **SUMMARY OF REPRESENTATIONS**

**Town Council:** No objection is raised but the following comments are made. Concern was expressed over the impact of these proposals on on-street parking due to the lack of sufficient off-street parking facilities and a request is made that the applicant/ developer should enter into a Section 106 agreement that prohibits residents of the proposed dwellings to obtain resident parking permits. The lack of provision of affordable housing is considered to be inappropriate and a suitable contribution should be made in lieu of this provision.

**WCC Ecology:** No objection, subject to a condition to require an ecologist to supervise works to the roof.

**WDC Waste Management:** No objection.

## **ASSESSMENT**

The issues relevant to the consideration of this application have all been considered previously by the Council in the assessment of the various previous applications for the site. The planning application that Planning Committee refused in 2013 (Ref. W13/1437) would have resulted in the same overall development that is now

proposed, i.e. the conversion of the building as a whole into 12 flats. Planning Committee refused planning permission on the grounds that the proposals failed to provide any affordable housing or on-site renewable energy production. When Planning Committee granted planning permission for a revised scheme in 2014, affordable housing was not an issue because that scheme retained the second floor as a single flat and therefore the number of dwellings was below the threshold for affordable housing. The March 2014 decision did, however, resolve the second of the previous reasons for refusal (renewable energy). An independently verified report had demonstrated that the implementation of renewable energy technologies on this site was not feasible.

The result of this recent planning history is that all but one of the issues relevant to the consideration of the current application have recently been considered by the Planning Committee and the proposals have been deemed to be acceptable in relation to every issue but one, affordable housing. There has been no material change in circumstances which would indicate that a different decision should be reached now in relation to those other issues. Therefore it is not necessary to repeat the full assessment here; this can be found in the Officer Reports relating to the previous applications. Consequently the assessment for the current application will focus on the issue of affordable housing.

The current proposals, in combination with the March 2014 planning permission, would result in the creation of 12 dwellings within the building as a whole. This would exceed the threshold where a proportion of affordable housing is required by Local Plan Policy SC11 (10 or more dwellings). However, the applicant has argued again that the provision of affordable housing would render the scheme unviable.

This argument was considered by the Planning Committee in relation to the 2013 application (Ref. W13/1437). A viability appraisal had been submitted with that application and this was reviewed "in house" by the Council's Senior Projects Co-ordinator. The recommendation of Officers in relation to that application was that the conclusions of the viability appraisal should be accepted and that planning permission should be granted without any requirement for affordable housing. However, Planning Committee disagreed and resolved to refuse planning permission.

The viability appraisal submitted with the current application is similar to the appraisal submitted with the 2013 application, but includes more detail on certain aspects of the case. It has also been updated to include an appraisal of the scheme that was approved in March 2014, i.e. the policy compliant scheme that was just below the affordable housing threshold. The updated viability appraisal again concludes that the provision of any form of affordable housing contribution would render the scheme unviable. The updated appraisal further concludes that the scheme approved in March 2014 fails to provide anywhere like an acceptable rate of return for a developer and therefore is unlikely to be implemented.

Another key difference between the current application and the 2013 scheme that was refused by Planning Committee is that this time the Council have

commissioned an independent surveyor (Jones Lang Lasalle) to verify the applicant's viability appraisal. Following the receipt of additional evidence from the applicant to substantiate their approach to sales values and anticipated conversion costs, Jones Lang Lasalle have confirmed that the provision of any form of affordable housing contribution would render the scheme unviable.

The NPPF is clear that affordable housing requirements should not be applied where this would render a scheme unviable. Paragraph 173 states as follows:

*"To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable."*

Therefore, in accordance with the independent advice of Jones Lang Lasalle, it is concluded that it would not be appropriate to insist upon the provision of any form of affordable housing contribution in this case. It is worth bearing in mind that the conversion of Listed Buildings can be very complex and involves additional costs for the developer. It is also of note that the proposals would secure the future of this Listed Building. This is a significant benefit of the scheme that weighs in favour of granting permission.

## **SUMMARY/CONCLUSION**

A conversion to flats would be acceptable in principle in this location. The proposals would preserve the character and appearance of the Listed Building and the Conservation Area and would have an acceptable impact on the living conditions of neighbouring dwellings. Furthermore, the proposals are considered to be acceptable in terms of car parking, highway safety, ecological impact and provision for public open space and it would not be appropriate to require on-site renewable energy production due to the constraints of this site. In addition, the viability appraisal submitted by the applicant demonstrates that the provision of any form of affordable housing contribution would render the scheme unviable. Therefore it is recommended that planning permission is granted, subject to conditions.

## **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) 821-07 & 821-08, and specification contained therein, submitted on 2 May 2014, except as required by condition 5.  
**REASON :** For the avoidance of doubt and to secure a satisfactory form

of development in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.

- 3 The development hereby permitted shall not be occupied unless or until a Traffic Regulation Order has been made by the Highway Authority to remove the application property from the existing Traffic Regulation Order thereby securing the removal of the rights of the applicant or future owners or tenants of the application property to apply for residents parking permits. **REASON:** To ensure the proposed development does not result in an increase in on-street parking pressure in an area with already high demand to the detriment of highway safety and residential amenity in accordance with Policies DP8, DP2 and the Vehicle Parking Standards SPD of the Warwick District Local Plan 1996-2011.
- 4 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 SC13 of the Warwick District Local Plan 1996-2011:
  - (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.

**REASON:** To ensure the necessary infrastructure and facilities are provided in accordance with Policy SC13 of the Warwick District Plan 1996 – 2011.
- 5 Before the development hereby approved commences and notwithstanding the details shown on approved plans, details must be submitted to and approved in writing by the Local Planning Authority showing: (a) 1:10 drawings of all external frames and associated joinery sections for new doors and windows; (b) large scale 1:5 drawings and 1:20 sections for new staircases; (c) 1:10 drawings of all new internal timber mouldings (skirting, handrails, architrave etc.) and ceiling coving; (d) external ironmongery and rainwater goods; (e) decorative finishes and colours to be used externally. Thereafter the development shall be carried out in accordance with the approved details. **REASON:** To ensure the character and appearance of the building is preserved in accordance with Policies DP1 and DAP4 of the Warwick District Local Plan 1996-2011.
- 6 The development hereby permitted shall not commence unless and until details of a cycle parking scheme within the application site have been

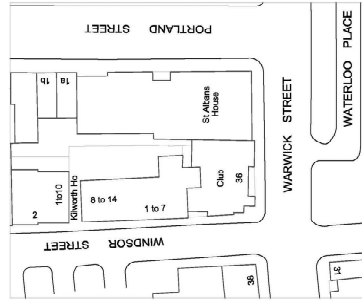
submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the approved cycle parking facilities have been provided and made available for use in accordance with the approved details and thereafter those facilities shall remain available for use at all times. **REASON:** In the interests of encouraging the use of alternative modes of transport with the aim of creating a more sustainable development in accordance with Policies SC4 & DP8 of the Warwick District Local Plan 1996-2011.

- 7 All window and door frames shall be constructed in timber and shall be painted and not stained. **REASON:** To ensure a high standard of design and appearance for this Listed Building and conservation area and to satisfy Policies DAP4 and DAP8 of the Warwick District Local Plan 1996-2011.
- 8 In relation to blocking existing windows or making good any sections where new apertures are created, no facing materials shall be used other than materials similar in appearance to those used in the construction of the exterior of the existing building. **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 Policies DP1 and DAP4 of the Warwick District Local Plan 1996-2011.
- 9 The development hereby permitted shall not be occupied unless and until the approved bin store facilities have been provided and made available for use in accordance with the details on drawing number(s) 821-05A, as approved under planning permission no. W14/0120 (or in any subsequently approved amendments), and thereafter those facilities shall remain available for use at all times. **REASON:** To ensure adequate facilities to serve the development in accordance with Policies DP1 & DP2 of the Warwick District Local Plan 1996-2011.
- 10 The development hereby permitted shall be undertaken in the presence of a qualified bat worker appointed by the applicant to supervise all destructive works to the roof of the building to be affected. All roofing material is to be removed carefully by hand. Appropriate precautions must be taken in case bats are found, such as the erection of at least one bat box on a suitable tree or building. Should evidence of bats be found during this operation, then work must cease immediately while Natural England and WCC Ecological Services are consulted for further advice. Any subsequent recommendations or remedial works will be implemented within the timescales agreed between the bat worker and the Local Authority Ecologist/Natural England. Notwithstanding any requirement for remedial work or otherwise, the qualified bat worker's report shall be submitted to the local planning authority within 1 month following completion of the supervised works to summarise the findings. **REASON :** To ensure that protected species are not harmed by the

development, in accordance with Policy DP3 of the Warwick District Local Plan.

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