

Planning Committee: 08 March 2005

Principal Item Number: 09

Application No: W 04 / 2073

Registration Date: 19/11/2004

Town/Parish Council: Leamington Spa

Expiry Date: 14/01/2005

Case Officer: Joanne Fitzsimons

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94-96 Parade, Leamington Spa, CV32 4AR

Partial re-development to create 20 no. apartments on second and third floors together with retail (class A1) use at basement, ground and first floors. FOR Atlantic Property Developments PLC

SUMMARY OF REPRESENTATIONS

Leamington Spa Town Council:

The Council welcomes the retention of retail use and the introduction of residential accommodation. In view of the potential noise generated from other Town Centre uses, appropriate sound attenuations measures should be provided. Concern is expressed in relation to the absence of any car parking within the development.

Neighbours:

None received.

W.D.C. Housing:

Have confirmed that a commuted sum of £360,000 is acceptable to Housing Strategy in lieu of on-site provision of affordable housing and this has been agreed by the Finance Director.

W.C.C Ecology:

Recommend that Bat notes are attached to the decision.

English Heritage:

Recommend refusal of the application as the proposal will neither preserve or enhance the character or the appearance of the Conservation area. Their comments are set out in full in Appendix 1.

Central Leamington Residents' Association:

Raise objections on the following grounds:

- Much of the building is to be demolished leaving only the front and side walls, this could lead to the potential danger for collapse and the request to demolish the building in its entirety;
- The overall density of the scheme should be reduced as the present scheme means that the overall roof line along Regent Street is increase by a mansard roof which is out of scale with the dormers and gables;
- Lack of parking provision and bin storage.

Conservation Area Advisory Forum:

The use of a façadism approach was not considered acceptable for this important building in the centre of Leamington. It was felt that the back walls should be retained. Concern also expressed at the detailing at roof level where the mansard had been continued from the corner of Regent Street and Bedford Street. It was felt that this was heavily detailed and did not reflect the detailing of the original corner block at mansard level. It was generally felt that the number of dwellings represented over-development as there was no parking available. It was felt the number of units resulted in the heavy mansard detailing previously mentioned. It was felt that the detailing on the new section on the corner of Regent Street and Bedford Street should reflect the detailing of the original building at the corner particularly at roof level. Concern was expressed at the minimal amount of bin storage. There was strong support for the re-use of the existing staircase within the development.

The Leamington Society

No objections and glad to note that Class A1 use and not more A3.

WDC Environmental Health

There is potential for disturbance from traffic noise as the site is adjacent to the busy junction on Regent Street and Parade. There is also potential for residents to be disturbed by late night/early morning noise activity in the street. If planning permission is granted recommend that a condition is attached to require the submission of plans to insulate against noise intrusion and agreed prior to commencement. Recommend also a condition regarding access for service vehicles to the retail units to be restricted to between 7am and 7pm Mon-Fri; 7am – 5pm Sat and not on Sundays or Bank Holidays.

RELEVANT POLICIES

(DW) ENV3 - Development Principles (Warwick District Local Plan 1995)
DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011 First Deposit Version)
DP2 - Amenity (Warwick District Local Plan 1996 - 2011 First Deposit Version)
(DW) ENV6 - Protection and Enhancement of Conservation Areas (Warwick District Local Plan 1995)
(DW) ENV7 - Demolition of Non-Listed Buildings within Conservation Areas (Warwick District Local Plan 1995)
(DW) ENV8 - New Development within Conservation Areas (Warwick District Local Plan 1995)
UAP1 - Directing New Housing (Warwick District Local Plan 1996 - 2011 First Deposit Version)
UAP3 - Directing New Retail Development (Warwick District 1996 - 2011 First Deposit Version)
TCP2 - Directing Retail Development (Warwick District 1996 - 2011 First Deposit Version)
DAP10 - Protection of Conservation Areas (Warwick District 1996 - 2011 First Deposit Version)
DAP11 - Unlisted Buildings in Conservation Areas (Warwick District 1996 - 2011 First Deposit Version)
SC9 - Affordable Housing (Warwick District Local Plan 1996 - 2011 First Deposit Version)
DP5 - Density (Warwick District Local Plan 1996 - 2011 First Deposit Version)
DP14 - Accessibility and Inclusion (Warwick District Local Plan 1996 - 2011 First Deposit Version)

DAP8 - Upper Floors within Listed Buildings and Conservation Areas (Warwick District 1996 - 2011 First Deposit Version)
(DW) ENV16 - Retention and Re-Establishment of Access to Upper Floors (Warwick District Local Plan 1995)

National Policy Guidance

PPG1 - General Principles
PPG3 - Housing
PPG6 - Town Centres and Retail Developments
PPG15 - Planning and the Historic Environment.

Warwickshire Structure Plan 1996-2011

GD3 - Overall Development Strategy
GD5 - Development Location Priorities
H2 - Affordable Housing
TC1 - Town Centre Uses.

PLANNING HISTORY

There have been no relevant planning applications on this site. The building has been in long established retail use with 'Woodwards' department store opening in 1908 and subsequently closing in July 2004.

KEY ISSUES

The Site and its Location

The application site relates to a large prominent corner building within the Conservation Area. It has its main frontage onto Parade, the principal shopping street in the town centre, where it is 4 storeys high (excluding the basement). The building extends the whole length of Regent Street along the South side of the road where it turns the corner into Bedford Street.

The building was subject to listing status and was given consideration by the Department for Culture, Media and Sport last year; however following advice given by English Heritage was determined not to have sufficient special architectural or historical interest to merit listing.

The frontage of the building onto Parade and Regent Street is quite different to that at the rear. Whilst the frontage is grand with large, ornate window details with a mix of brick and render, the more plain, brick elevation at the rear has smaller windows and has access to a small, narrow service area. There is a right of way along this service area for number 98 Parade (Rymans).

Details of the Development

The application seeks to demolish and re-build 2 walls of the building with the creation of an additional floor. The proposal relates to the provision of 4 retail units on the ground and first floors, utilizing the basement area for storage. There is a retail entrance from Parade and three separate entrances from Regent Street. The retail floor area (including the restaurant area) of the existing building is 1.631 m² (net). The new scheme allows for a retail floorspace of 1.813m², which is an increase of 182m² (11%). This is achieved through an increase in floor area at ground and first floor by the re-building of the back wall (visible from Bedford Street) and re-aligning the right of way access.

The proposal also involves the creation of an additional floor so that the remainder of the building along Regent Street is then 4 storeys high (excluding the basement) through the use of dormer windows. The second and third floors are to provide 20 new apartments gaining access from Bedford Street.

Assessment

Principle of Partial Demolition

The building is within a Conservation Area, but is not a Listed Building. Policy ENV7 of the Local Plan 1995 and Policy DAP11 of the emerging Local Plan both state that development will not normally be permitted for the demolition of non-listed buildings which contribute to the overall character of the Conservation Area unless the design of the replacement can demonstrate that it will bring about a genuine qualitative improvement to the Conservation Area and to the setting of the adjacent buildings.

With this in mind the applicant has provided documentation and evidence to demonstrate that the existing building is not capable for refurbishment or conversion in the form of a full structural survey and retail report. Within PPG15, paragraph 3.8 states

“Generally the best way of securing the upkeep of historic buildings and areas is to keep them in active use. For the great majority this must mean economically viable uses if they are to survive, and new, and even continuing, uses will often necessitate some degree of adaptation. The range and acceptability of possible uses must therefore usually be a major consideration when the future of listed buildings or buildings in conservation areas is in question.”

Whilst the building is not listed, advice in PPG15 suggests that proposals to demolish non-listed buildings should be assessed against the same broad criteria as proposals to demolish listed buildings. Paragraph 3.19 sets out the criteria:

“Where proposed works would result in the total or substantial demolition of the listed building, (or and significant part of it), the Secretaries of State would expect the authority, in addition to the general considerations set out in paragraph 3.5 above, to address the following considerations:

- (i) the condition of the building, the cost of repairing and maintaining it in relation to its importance and to the value derived from its continued use. Any such assessment should be based on consistent and long term assumptions. Less favourable levels of rents and yields cannot automatically be assumed for historic buildings. Also, they may offer proven technical performance, physical attractiveness and functional spaces that, in an age of rapid change, may outlast the short-lived and inflexible technical specifications that have sometimes shaped new developments. Any assessment should also take account of the possibility of tax allowances and exemptions and of grants from public or charitable sources. In the rare cases where it is clear that a building has been deliberately neglected in the hope of obtaining consent for demolition, less weight should be given to the costs of repair;*
- (ii) the adequacy of efforts made to retain the building in use. The Secretaries of State would not expect listed building consent to be granted for the demolition unless the authority (or where appropriate the Secretary of State himself) is satisfied that real efforts have been made without success to continue the present use or to find compatible alternative uses for the building. This should include the offer of unrestricted freehold of the building on the open market at*

a realistic price reflecting the building's condition (the offer of a lease only, or imposition of restrictive covenants, would normally reduce the chances of finding a new use for the building).

- (iii) *The merits of alternative proposals for the site. Whilst these are a material consideration, the Secretaries of State can take the view that subjective claims for the architectural merits of the proposed replacement building should not themselves be held to justify the demolition of any listed building. There may very exceptionally be cases where the proposed works would bring substantial benefits for the community, which have to be weighted against the arguments in favour of preservation. Even here, it will often be carefully considered: the challenge presented by retaining listed buildings can be a stimulus to imaginative new design to accommodate them."*

In fulfilling the above criteria, the applicant has demonstrated that the structural condition of the building's interior is such that the changing levels in floor plates render an acceptable form of refurbishment unachievable if the aim is to secure an additional level of retail floor space which is accessible to all; restoration of the frontage and provision of a genuine improvement within the Conservation Area. Through the provision of a retail report, comparisons have been measured between the existing floor space and that which is required for today's standard. Due to the uncertainty regarding floor loadings in parts, the inflexibility to accommodate a split into individual units, and likelihood of modern fit out of the unusual internal configuration, it is argued that these factors amount to substantial shortfalls in seeking to retain the building in its entirety.

Furthermore, internally, there is an existing staircase with significant balustrade detailing. The applicant has agreed to, where possible, to re-use the balustrade within the retail units. As such I consider it to be appropriate to attach a condition requiring details of how this is to be incorporated.

Principle of mixed retail and residential

The site is located within the heart of the shopping area within Leamington Town Centre. The fundamental use of the building for retail purposes is therefore acknowledged and supported and therefore complies with the objectives of local plan policy and PPG6 which states that the Government's objectives are:

*"To sustain and enhance the vitality and viability of town centres;
To maintain an efficient, competitive and innovative retail sector..."*

Whilst the proposal will reduce the number of floors for potential retail space (reducing from 4 to 2), the fact that the total floor space exceeds that which is currently available, in my opinion, outweighs this loss, given that the applicant has provided evidence that the modern retailer requirements are for either single or two storeys of retail floorspace. Furthermore, the applicant has pointed out that this gives greater flexibility by providing level floor plates and therefore argues that their proposal makes better use of the available floor area than was possible for Woodwards.

The introduction of residential development within Town Centres is supported by Policy UAP1 which states that *"Residential development will be permitted on previously developed land and buildings within the confines of the urban areas"*. Paragraph 49 of PPG3 states that:

“Local Authorities should promote developments which combine a mix of land uses, including housing, either on a site or within individual buildings such as flats over shops. This is important not only to accommodate new households but also to bring new life into our towns and cities. To increase housing opportunities in town centres, local authorities should identify sites or areas where housing or mixed-use development will be required, including, where appropriate, specifying the proportion of floorspace which should be residential within such developments.”

Policy ENV16 of the Local Plan 1995 and Policy DAP8 of the emerging Local Plan 1996-2011 encourage and seek to ensure that upper floors of both listed and non-listed buildings in conservation areas are accessible and thus do not fall into disrepair. The use of the whole building ensures that there is additional security of the building and maximizes the floorspace. As a comprehensive scheme, I consider this proposal to comply with these policies. Therefore as a mixed use proposal comprising both retail and residential use, I am satisfied that this application meets the objectives of the local plan and national guidance.

Quality of the re-building design to the rear

The final design of the rear element of the proposal has been the subject of extensive negotiations with the Council’s Conservation Architect. The design as now proposed comprises the demolition of the rear wall to be rebuilt increasing the floor space on the ground and first floor levels (retail). The second and third floors step back in, to provide a break in the brick work and enables features such as blind brick panelling to be introduced. Where the second floor steps back, a ‘half’ hip roof is proposed which encloses and to some degree obscures the balcony detail. The full length window/doors are required to provide the necessary standard of natural light. The balcony, which can only be accessed by flats 8, 9 and 10 measures only 1.7 metres in width and therefore is too narrow for large amounts of seating or other fixtures and will therefore, in my opinion, be suitable for planting.

The external escape staircase is to be enclosed in brickwork with some panel detailing to provide an interesting feature when viewed from Bedford Street.

The new third floor fronting Regent Street is provided through the introduction of dormer windows within a mansard roof which is a continuation of that which exists on the front elevation to Parade. The dormer windows have been amended so that they sit well within the roof and are graduated in size to emphasise the larger, more grandiose windows below.

Car parking and Bin Storage

Whilst I note the concerns raised by the Leamington Town Council with regard to the lack of parking, the site is a Town Centre location wherein paragraph 61 of PPG3 states that:

“Local authorities should revise their parking standards to allow for significant lower levels of off-street parking provision, particularly for developments:

- *In locations, such as town centres, where services are readily accessible by walking, cycling or public transport;”*

The site is located on a busy transport route whereby there are regular bus services and the train station is within walking distance. Notwithstanding the above, the applicant has made significant efforts to secure parking at St. Peter’s multi storey car park on Bedford Street for an initial period of 5 years.

The proposal does provide bin storage for both the retail and residential uses and this is located to the rear of the premises at ground floor level.

Affordable housing

Through negotiations, the applicant has offered £360,000 as a commuted sum for the affordable housing strategy. This has been accepted by the Council. This sum represents 8 affordable housing units and this equates to 40%.

Summary

Whilst I am conscious of the views of English Heritage and other concerns raised by this proposal, when considered as a package, I am of the opinion that it is acceptable. When taking into account that this is a distinguished location within the heart of the shopping area of Leamington Spa, I am of the view that there is strong support to ensure the continued use of this site as a retail store. In providing 4 units on two floors this will encourage long-term, well-known anchor retailers to the town centre, ensuring that the long-term upkeep of the building is maintained. The frontages onto Parade and Regent Street are to be refurbished and provide an opportunity to secure a traditional shopfront with mullions and stall-risers.

The introduction of residential accommodation within the town centre is in line with local and national guidance and coupled with the use of the upper floors will in my view encourage the vitality of the town. With regard to the demolition of the rear wall, given that this results in achieving a greater retail floorspace than that which exists, I consider that the proposal is appropriate. I am of the view that the proposed replacement of the rear wall will provide a positive contribution to the street scene and wider conservation area as it does not detract from the setting of adjacent listed buildings further along Parade. The design is such that it maintains a 'less ornate' appearance than the frontage and therefore is subservient in its impact on Bedford Street. In conclusion, I am of the opinion that the benefits derived from the proposed development more than outweigh the loss of the existing rear wall and internal elements as highlighted by English Heritage.

REASON FOR RECOMMENDATION

The proposal is considered to comply with the policies listed above.

RECOMMENDATION

GRANT subject to the Section 106 agreement for the commuted sum and to the following conditions :

- 1 The development hereby permitted must be begun not later than the expiration of five years from the date of this permission. **REASON** : To comply with Section 91 of the Town and Country Planning Act 1990.

- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the approved drawing numbers 3151PL(90)02, 3151PL(99)11A, 3151PL(99)12B, 3151PL(99)13C, 3151PL(99)14C, 3151PL(99)15C, 3151PL(99)16C and 3151(99)17C and specification contained therein, submitted on 19 November 2004, 3 December 2004 and 21 February 2005, 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 Prior to the commencement of the development hereby permitted, a detailed structural survey/report demonstrating the method in which the frontages of Parade and Regent Street are to be supported and refurbished during the demolition, shall be submitted to and approved in writing by the District Planning Authority. The development shall not be carried out otherwise than in strict accordance with such approved details. **REASON:** To ensure an appropriate method of support is exercised to ensure the retention of the frontages onto Parade and Regent Street, in accordance with the requirements of Policies ENV6 and ENV8 of the Warwick District Local Plan 1995.
- 4 No development shall be carried out on the site which is the subject of this permission, until large scale details of doors, dormer windows, windows (including a section showing the window reveal, heads and cill details), shopfront, eaves, verges and rainwater goods at a scale of 1:5 have been submitted to and approved by the District Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details. **REASON :**To ensure an appropriate standard of design and appearance within the Conservation Area, and to satisfy Policy ENV8 of the Warwick District Local Plan.
- 5 Samples of all external facing materials to be used for the construction of the development hereby permitted, shall be submitted to and approved by the District Planning Authority before any constructional works are commenced. Development shall be carried out in accordance with the approved details. **REASON :** To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy ENV3 of the Warwick District Local Plan.
- 6 All doors and windows shall be constructed of timber and painted, not stained. **REASON:** To ensure an appropriate standard of design and appearance within the Conservation Area, and to satisfy Policy ENV8 of the Warwick District Local Plan.
- 7 Prior to the commencement of the development hereby permitted, details of a scheme for the dismantling and potential re-use of the staircase balustrade within the retail units shall be submitted and approved in writing by the District Planning Authority. The development shall not be carried out other than in strict accordance with such approved details. **REASON:** In the opinion of the District Planning Authority, the balustrade to the staircase within the building is considered to be of significant historic interest and therefore every effort should be made to seek its continued use within the re-development of the building and to satisfy the objectives of Local Plan Policies ENV6 and ENV8 of the Warwick District Local Plan 1995.
- 8 The use of the access for service vehicles shall be restricted to the hours between 7am and 7pm Monday to Friday, 7am and 5pm on Saturdays and not on Sundays or Bank Holidays .**REASON :** To protect the amenities of surrounding properties, in accordance with Policy ENV3 of the Warwick District Local Plan.
- 9 No development shall be carried out on the site which is the subject of this permission, until satisfactory details of a noise insulation scheme to minimise transmission of airborne noise from the retail units have been submitted to and approved by the District Planning Authority and the development shall not be carried out otherwise than in full accordance with such approved details. **REASON :** In the interests of the residential amenities in accordance with Policy ENV3 of the Warwick District Local Plan 1995.

10 Details of any air conditioning, ventilation and flue extraction systems including particulars of noise levels shall be submitted to and approved by the Local Planning Authority before any works commence on site. The development shall not be carried out otherwise than in full accordance with such approved details. **REASON** : To protect the amenities of surrounding properties, in accordance with Policy ENV3 of the Warwick District Local Plan.

11 No development shall be carried out on the site which is the subject of this permission, until details of provision for storage of domestic and commercial refuse have been submitted to and approved by the District Planning Authority and the development shall not be carried out otherwise than in full accordance with such approved details. **REASON** : To protect the amenities of occupiers of the site and to ensure proper arrangements are made for its collection.
