

Planning Committee: 14 February 2005
Application No: W 04 / 1111

Principal Item Number: 21

Town/Parish Council: Leamington Spa
Case Officer: John Beaumont
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Registration Date: 16/06/2004

Expiry Date: 11/08/2004

73 Warwick Street, Leamington Spa, CV32 4RR

Part demolition of existing building. Construction of alterations and extensions to provide retail storage and fire escape in basement, retail on ground floor with 22 flats above.
FOR Alveston Development Ltd.

SUMMARY OF REPRESENTATIONS

Town Council: The absence of provision for on-site parking in an area where on-street parking is very limited is viewed with concern, particularly in terms of the number of units proposed.

C.A.A.F.: It was felt that the existing roof, although modified was still too prominent. It was considered it should form a full-stop in the way that the adjacent property at the other end of the terrace does, being built up against a gable wall at a lower level, providing purely attic accommodation rather than penthouse accommodation. It was felt it would provide a roofspace alien to Leamington Spa.

Warwickshire Police: No objection.

W.C.C. (Ecology): No objection subject to bird/bat notes.

W.C.C. (Planning): No planning objection. Financial contributions of £10,200 for education, £1,612 for libraries and £990 for public transport (for the provision of Welcome Travel Packs for new occupiers.

W.C.C. (Highways): No objection. The application does not show any parking provision but no objection to a scheme in this location as sustainable development.

Head of Environmental Health: No objection subject to adequate soundproofing relating to road noise and adequate noise separation between residential and retail activities.

RELEVANT POLICIES

(DW) ENV12 - Protection of the Setting of Listed Buildings (Warwick District Local Plan 1995)

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

(DW) S10 - Protection of Existing Retail Floorspace within Town Centres (Warwick District Local Plan 1995)

(DW) S3 - Additional Retail Development in Town Centres (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)

(DW) H5 - Infilling within the Towns (Warwick District Local Plan 1995)

(DW) S5 - Changes of Use Within Retail Areas (Warwick District Local Plan 1995)

DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011 First Deposit Version)

DP2 - Amenities (Warwick District Local Plan 1996 - 2011 First Deposit Version)

TCP2 - Directing Retail Development (Warwick District 1996 - 2011 First Deposit Version)

DAP6 - Protection of Listed Buildings (Warwick District 1996 - 2011 First Deposit Version)

DAP10 - Protection of Conservation Areas (Warwick District 1996 - 2011 First Deposit Version)

(LTC) H3 - Residential use of upper floors

Relevant Government Guidance is contained in PPG3 (Housing), PPG6 (Town Centre), PPG13 (Transport), PPG15 (Planning and the Historic Environment) and PPG24 (Planning and Noise)

PLANNING HISTORY

A previous application for the part demolition of this building, alterations and extensions to provide retail storage and fire escape in basement, retail on ground floor with 22 flats above was withdrawn in March 2004.

KEY ISSUES

The Site and its Location

The site occupies a prominent corner location in the Conservation Area at the junction of Warwick Street, Oxford Street and Oxford Row. It has a frontage to each of these streets and 'wraps around' listed buildings fronting onto Warwick Street. The building comprises an 'L' shaped modern building on the street frontages with an older lower building behind. This modern building has arches on the ground floor with shop windows and a largely blank, tiled elevation above to Warwick Street and Guy Street, with windows to Oxford Row; it presently has a flat roof. The building currently has a basement storage area with retail on ground and first floor; the second floor and this floor are now used for storage and staff facilities. To the north of the site is the Chandos Street public car park.

Details of the Development

This is an amended application; as amended it contains the following elements:-

- The demolition of the older elements of the building onto Oxford Row and to the rear of the principal 'modern' building.
- The construction of new extensions to provide ground floor retail accommodation with a communal 'deck' above for the flats together with means of fire escape to Oxford Row.
- The retention of storage in the basement, retail on the ground floor and retail on the first floor (in part); N.B. as originally submitted, the scheme proposed an additional four flats in the area now proposed to be retail on the first floor.
- The formation of 2 flats at the first floor, 6 on the second floor, 6 on the third floor and 4 on the fourth floor (i.e. a total of 18 flats).
- The construction of these flats will entail an extension to the building fronting Oxford Row, the insertion of new windows to all facades, the rendering of the building and the creation of a new mansard roof with dormer windows; the design of the roof has been amended to further reduce its height and amend the design of the dormers.

The applicants and their agents have submitted statements in support of the application, emphasising the improvements they consider will result to the layout of the basement and ground floor for retail operations and the amendment to the application to now include first floor retailing. They consider these improvements to the retail attractiveness of the store, together with the bringing of the upper floors into active residential use and the resulting elevational changes to the building more than outweigh the loss of retail/storage floorspace within the building.

A photo montage of the proposed alteration to the building, viewed from Parade, has been submitted.

Assessment

I consider this application raises the following key issues:-

The partial demolition of the building and the impact of the proposed amended design on the Conservation Area and the setting of nearby Listed Buildings

I consider those parts of the building which are proposed to be demolished are not of intrinsic architectural or historic interest and located primarily to the rear of the 'modern' building fronting Warwick Street, Guy Street and Oxford Row do not make a significant contribution to the character or appearance of the Conservation Area. The new works proposed have been carefully designed in respect to their relationship to the Listed Building fronting Warwick Street and indeed will open up more the rear view of those buildings by the creation of the proposed first floor terrace area. Presently, I consider the 'modern' building is an alien and incongruous element within the historic street scene; whilst with its tiled and largely blank elevations it is an example of a particular architectural style, I consider the rendering of the building, the introduction of windows and the mansard roof would be a significant enhancement to this prominent corner site which is clearly visible from Parade. I note the views expressed by C.A.A.F. but the design has been further amended to reduce the height of the roof and alter the design of dormers at Warwick Street. The applicants architect has confirmed that the sides of the mansard will be natural slate with a lead roof; it will also in part be concealed by the parapet around the existing building. As an element of roofspace I do not consider this amended roof design would be harmful to the character or appearance of the Conservation Area such as to justify refusal.

Principle of residential use and the amenity of residents and occupiers of nearby properties

The provision of residential accommodation within the town centre in my opinion is wholly acceptable and is in general accordance with both Local Plan policies and wider Government guidance. I note the concerns of the Head of Environmental Health regarding noise but I consider that this should not preclude the provision of town centre housing and can be the subject of an appropriate planning condition. The proposed flats will generally face outwards towards the surrounding streets with only 5 bedrooms and windows to access corridors, a dining room and a kitchen looking into the internal 'courtyard'; the habitable room windows will be some 18 m from the rear elevation of properties on Warwick Street directly to the rear of the site. Whilst I acknowledge the potential for increased overlooking, I consider this has to be balanced against the benefit which may be considered to derive from the demolition of the more substantial rear buildings and the resulting improved outlook to the windows on the rear of Warwick Street properties. In my opinion, the impact of the scheme as now proposed on neighbours would be acceptable, as would the residential amenity provided for the future occupiers of the proposed flats.

Loss of retail floorspace

There is a general policy presumption against the loss of town centre retail floor space. As originally submitted, this application proposed wholly residential use on the first floor but it has now been amended to retain retail floorspace at that level by deleting 4 proposed flats fronting Warwick Street, Guy Street and Oxford Row. Whilst there will still be clearly a loss of retail floorspace at the first floor, I am mindful of the benefits this scheme will bring to the ground floor retail area and operation of storage in the

basement. I also consider this loss of retail floorspace has to be balanced against the bringing of the upper floors of the building into active use and the wider benefits to the character and appearance of this building and the wider Conservation Area which in my opinion will result from the architectural change now proposed. The applicants agent has confirmed that the net existing area at basement level is 246 sq. m., ground floor is 527 sq. m. and first floor is 496 sq. m. The net areas proposed are 315 sq. m. basement, 596 sq. m. ground floor and 261 sq. m. first floor. I do not consider the net loss of 166 sq. m. of retail floorspace contained within the amended scheme would justify the refusal of this application.

Car parking and servicing arrangements

The scheme does not include any provision for off-street car parking to serve either the retail floorspace or the proposed flats. The site, however, is located within the town centre in a sustainable location and I do not consider an objection based on the absence of off-street car parking could be sustained. Servicing would remain, as present, off Oxford Row and I note that the Highway Authority has not raised objection to the proposed development.

Affordable housing and planning obligations

The County Council has identified elements of planning obligations, set out above, in their consultation reply, which I consider reasonably relate to this application. With regard to affordable housing, the scheme as amended now proposes 18 dwellings. Whilst this is above the threshold of 15 dwellings, which is the 'trigger' for affordable housing contained in the Warwick District Local Plan 1996-2011, first deposit version, the applicant has stated they do not consider that affordable housing should be required on this site in the light of the limited weight which can be given to that policy at the present stage of the local plan process and the comments made by an Inspector in recently allowing a planning appeal at Lillington Road, Leamington Spa (reference W031607).

As Members are aware, advice was sought from Counsel as to whether there was a reasonable prospect of challenging the Inspectors decision on the appeal; he concluded that there was not. In looking at the issue of 'affordable housing', Counsel commented as follows:-

"3. Policy SC9 [of the Warwick District Local Plan 1996-2011, first deposit version, which relates to affordable housing] is contained in the First Deposit of the emerging District Local Plan. It has attracted considerable objection. In these circumstances, particularly as its requirements depart from and are more onerous than those in Circular 6/98, it was almost inevitable that the Inspector concluded he could attach little weight to it. The difficulty for the Council at present is that Circular 6/98 states emphatically that proposals to adopt a lower threshold than those contained in the Circular must be demonstrated and justified through the local plan process. However, as the emerging Plan get farther down the course towards adoption as the Development Plan, greater weight may be attached to its provisions particularly, if as expected, Government guidance on thresholds is changed in the eagerly awaited PPS with the effect that SC9 falls in line with national policy. Policy CF5 which would have formed part of the Development Plan at the time of the Inspector's decision (although not referred to by either party or the Inspector) is helpful in recognising that thresholds below those set out in national guidance may be appropriate, but it too requires those thresholds to be brought forward through the development plan process. In the future, therefore, with PPS3 (it is to be expected) lowering thresholds, with the emerging Local Plan being more advanced than now and with the strategic background of RSS Policy CF5 I am

hopeful that Inspectors would be prepared to attach more weight to policy SC9. Of course, once the new Plan is adopted, full weight will have to be accorded to its terms."

In the context of this advice and the decision by Government to issue a further consultation draft of PPS3 (i.e. the present threshold has not been reduced from 25 dwellings), I consider a refusal of this application on the grounds that affordable housing is not provided could not be sustained.

REASON FOR RECOMMENDATION

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

RECOMMENDATION

That subject to the satisfactory conclusion of a legal Section 106 agreement to secure the provision of monies as requested by the County Council as set out above, planning permission be GRANTED, as amended, subject 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 nos. 860/20F, 21F, 22J, 24H, 25J, 33C and 40A, and specification contained therein, 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 No development shall be carried out on the site which is the subject of this permission, until large scale details of balconies, dormers, parapets, external fire escape and covered fire escape route leading thereto, render detailing, doors, windows (including a section showing the window reveal, heads and cill details), 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.
- 4 Samples of all external facing materials including details of render and colour thereof 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.
- 5 No external lighting shall be installed on any external wall or roof of any building or within the open land comprised in the application site other than in accordance with details first submitted to and approved in writing by the District Planning Authority. **REASON** : To protect the amenity of the occupiers of nearby properties, and to satisfy the requirements of Policy ENV3 of the Warwick District Local Plan.

- 6 No development shall be carried out on the site which is the subject of this permission, until details of provision for storage of 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 the character and appearance of the locality, in accordance with Policy ENV3 of the Warwick District Local Plan.
- 7 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, both noise transmission within the building (between flats and between the retained retail area and the flats) and of airborne noise 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 amenities of future occupiers of the building.
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