

**Planning Committee:** 6<sup>th</sup> April 2011      **Item Number:** Urgent item

**Investigation Number:** ENF128/12/07

**Town/Parish Council:** Leamington Spa

**Case Officer:** Gary Fisher  
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**32 Kenilworth Road, Leamington Spa CV32 6JE**  
Conversion of rear wing of building into two mews houses.  
Property Owner/Developer Mr P Akhter

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This matter is being presented to Committee in order to request that further enforcement action at this site be authorised. It is being brought forward as an urgent enforcement item because the time limit for taking further such action is close to expiring.

### **SUMMARY OF REPRESENTATIONS**

There has been increasing concern from neighbours and Councillor De-Lara Bond regarding the absence of the implementation of remedial works at this site arising from the combination of the issue of an enforcement notice relating to unauthorised external development and a recent grant of planning permission for the conversion of the rear wing of the building from the current unauthorised 4 bed mews house and a 3 bed mews house to a 2 bed and a 1 bed mews house.

### **PLANNING HISTORY**

The property in question and the adjacent villa at 34 Kenilworth Road were formerly used as a residential care home known as Magnolia House. Since that time, the recent planning history of the site has been complex.

In **2003** a planning application (W/03/0899) for the conversion and extension of Magnolia House to form 19 apartments was refused on the grounds of insufficient car parking, the prominent visual impact of vehicles on the forecourt, the design and form of an extension to the rear of 32 Kenilworth Road and noise and disturbance from vehicles. An appeal against this decision was dismissed in **2005**.

In **2004** subsequent separate planning applications to convert 32 Kenilworth Road into 7 apartments and 34 Kenilworth Road into 9 apartments were approved by Planning Committee (W/03/1881 and W/04/0777). The apartments at number 32 were served by 6 car parking spaces at the front of the property.

In **2005**, planning permission was granted in respect of a site encompassing both 32 and 34 Kenilworth Road for alterations to the landscaping and boundary treatment on the site frontage including a new driveway and 3 parking spaces in the rear curtilage of number 32 (W/05/0204). The proposals were secured as amendments to planning permissions W/03/1881 and W04/0777 by means of a planning obligation.

In **early April 2007** an application (part retrospective) was submitted for the conversion of the rear wing of 32 Kenilworth Road to form two mews dwellings, with the provision of additional car parking and the relocation of a communal bin store (W/07/0588). The proposals were for one 4 and one 3 bed unit. That application was refused by Planning Committee on **7 August 2007** (contrary to officer recommendation) predominantly because of the impact of the development on the character and appearance of the conservation area in which it is located. This refusal of planning permission was subsequently the subject of an appeal

In **December 2007** a revised application (W/07/2034) was submitted. This proposed the same sized houses with additional rear parking and the relocation of the bin store. This application was refused in **March 2008** for similar reasons to W07/0588. This refusal was also the subject of a subsequent appeal which was conjoined with that relating to application W07/0588.

In **June 2008** the appeals against refusals of planning permission W07/0588 and W07/2034, following a hearing, were both dismissed mainly on conservation and highway safety/ parking grounds.

In **February 2009** a revised application (W09/0213) for the proposed retention with alterations of the two mews houses in the rear wing of the building was submitted following ongoing discussions with the site owner. This application originally proposed two 2 bedroomed houses to be created out of the 3 and 4 bed existing houses within the rear wing, together with 6 car parking spaces in the rear garden.

In **April 2009** an enforcement notice was served in relation to the erection of an unauthorised single storey extension; additional hard standing parking areas and a communal bin store at the site. The period for compliance with the notice was 3 months.

In **August 2009** an appeal against the enforcement notice was dismissed, with the period of compliance extended to 6 months. .

In **April 2010** following the amendment of the application details (W09/0213) to propose the conversion of the two existing unauthorised 3 and 4 bed mews dwellings to one 1 bed and one 2 bed mews dwellings together with 3 parking spaces in the rear garden, planning permission was granted by Planning Committee.

Since that time, on-going contact with the site owner has resulted in a written commitment to undertake works to implement the most recently approved planning permission and to comply with the requirements of the extant enforcement notice.

However to date, no such works have been commenced.

In view of the absence of compliance with the enforcement notice, a prosecution file has been prepared and is currently with the Council's solicitors.

## **RELEVANT POLICIES**

### **Warwick District Local Plan 1996 – 2011**

- ***DP1 - Layout and Design*** – Development must have a good layout and design and meet various criteria
- ***DP2 - Amenity*** – No unacceptable harm to amenity of neighbours and occupiers
- ***DP8 - Parking*** – Provision for parking which amongst other criteria does not result in on-street parking detrimental to highway safety.
- ***DAP8 - Protection of Conservation Areas*** – Development must preserve or enhance the character and appearance of the conservation area
- ***DAP11 - Unlisted Buildings in Conservation Areas*** – Alterations/ extensions to unlisted buildings in conservation areas must not adversely affect the character and appearance of the conservation area.

**Vehicle Parking Standards SPD – 2007** – Adopts maximum parking standards which are appropriate in most circumstances.

## **KEY ISSUES**

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

The property is an unlisted detached 19<sup>th</sup> century villa situated on the eastern side of Kenilworth Road, within the Leamington Spa Conservation Area bounded by residential properties which are listed. The main part of the building is sub-divided into the permitted residential flats whilst the rear wing currently comprises two unauthorised 3 and 4 bed mews houses.

### **Details of the development**

The unauthorised development the subject of this report comprises the subdivision of the rear wing of the building into two unauthorised 3 and 4 bed mews houses by means of its vertical subdivision to create two dwellings over three floors including the blocking up of windows on the first floor rear elevation.

### **Assessment**

The main issues relating to this unauthorised development are the impact on the character and appearance of the building, its surroundings and the wider conservation area and the impact of the increased intensity of use arising from the 3 and 4 bed mews dwellings on vehicle movements, parking and highway safety.

Your previous refusal of planning permission for the development the subject of this report and the subsequent appeal decision included those reasons.

The Inspector's comments on the use of the rear wing was focussed on the alterations which facilitated the creation of two dwellings on three floors including the blocking up of windows on the rear elevation which he considered harmed its external character and appearance. He also concluded that the balance between parking space and open rear garden was unsatisfactory. In respect of parking provision and highway safety he concluded that in view of the local parking problem including vehicles regularly parking on the pavement there was insufficient parking for this intensity of development

These conclusions formed the basis of the assessment of the revised proposals made in application W09/0213 which you approved in April 2010. You considered that the proposed development involving a reduction in the number of bedrooms of the 2 mews dwellings was also consistent with the design of the original villa and did not involve increased parking demand over and above the scheme originally permitted in 2004.

In this context the retention of the current unauthorised development comprising one 3 and one 4 bed house over three floors involving the blocking up of windows unacceptably harms the character and appearance of the conservation area. Further, the retention of any additional number of bedrooms over and above those permitted in 2004 is judged to lead to unacceptable parking demand and associated harm to highway safety.

### **Justification for Enforcement Action**

The current subdivision of the rear wing of the building into 2 mews dwellings ( 1 x 3 bed and 1 x 4 bed) is unauthorised. Notwithstanding the enforcement action already taken in respect of external alterations to the site; the most recent grant of planning permission including the revised provision of a 1 and a 2 bed mews dwelling in the rear wing of the building; and written assurances received from the site owner that all required internal and external works would be undertaken, to date there has been no progress on site.

It is therefore considered that in addition to the current consideration of further legal action relating to non-compliance with the extant enforcement notice directed at unauthorised external development at the site, the service of a further enforcement notice relating to the required internal alterations to the building is also required.

## **RECOMMENDATION**

That appropriate enforcement action be authorised directed at the cessation of the use of the rear wing of the building as a 3 and a 4 bed mews dwelling and the alteration of that part of the building such that it conforms with either of the schemes permitted by planning permission W/04/0777 or W/09/0213 with a compliance period of 6 months.