

Planning Committee: 05 December 2017

Item Number: **13**

Application No: [W 17 / 1752](#)

Town/Parish Council: Leamington Spa

Case Officer: Lucy Hammond

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Registration Date: 02/10/17

Expiry Date: 27/11/17

32 Hamilton Terrace, Leamington Spa, CV32 4LY

Change of use from office (B1) to non-residential institution (D1) FOR Mrs Reynolds

This application is being referred to Planning Committee because the application site is owned by Warwick District Council.

RECOMMENDATION

That planning permission be granted subject to the conditions listed at the end of this report.

DETAILS OF THE DEVELOPMENT

Planning permission is sought to change the use of the building from B1(a) offices to a non-residential institution falling into Use Class D1. The end user of the building on behalf of whom this change of use is sought is The Acupuncture Academy Ltd, a training and education centre for students wishing to study and qualify as professionals in this field of alternative medicine.

No physical changes are necessary, either internally or externally, to facilitate the material change of use so despite the fact the application building is Grade II listed, no separate application for listed building consent is necessary.

THE SITE AND ITS LOCATION

No.32 Hamilton Terrace is a three storey stucco fronted building forming the end unit of a terraced row which is set back from the road. The building is Grade II listed and is within the Royal Leamington Spa Conservation Area. The site is also within the designated Town Centre Employment Area as illustrated on the Policies Map for Leamington Spa.

While the majority of premises in Hamilton Terrace have a B-class use, there are some buildings which have D-class uses; for example, the adjoining building is in use as a dentist, and further along Hamilton Terrace there are other dentist premises. The neighbour to the other side of the application site which is detached and set further forward, closer to the road, is in use as a restaurant.

PLANNING HISTORY

W/17/1066 - Change of use from office (B1) to non-residential institution (D1) - Withdrawn before determination due to lack of supporting information.

RELEVANT POLICIES

- National Planning Policy Framework

The Current Local Plan

- DS5 - Presumption in Favour of Sustainable Development (Warwick District Local Plan 2011-2029)
- PC0 - Prosperous Communities (Warwick District Local Plan 2011-2029)
- TCP12 - Protecting Town Centre Employment Land and Buildings (Warwick District Local Plan 2011-2029)
- BE1 - Layout and Design (Warwick District Local Plan 2011-2029)
- BE3 - Amenity (Warwick District Local Plan 2011-2029)
- TR1 - Access and Choice (Warwick District Local Plan - 2011-2029)
- TR3 - Parking (Warwick District Local Plan - 2011-2029)
- HE1 - Protection of Statutory Heritage Assets (Warwick District Local Plan 2011-2029)

Guidance Documents

- Vehicle Parking Standards (Supplementary Planning Document)

SUMMARY OF REPRESENTATIONS

Leamington Spa Town Council: No objection.

ASSESSMENT

The principle of development

The site lies within the designated Town Centre Employment Area where Policy TC12 of the Local Plan states that the redevelopment or change of use of existing employment land and buildings to non-B Class uses will not be permitted. Nonetheless, the building has been vacant for almost 18 months, during which time it has been actively marketed. The building is also Grade II listed and the longer it remains vacant the more at risk it becomes of falling into disrepair which in itself brings significant disbenefits from a heritage and conservation point of view.

Given that the site is within the designated Town Centre Employment Area and the proposed change of use would not accord with the provisions of Policy TC12, the starting point for this application would be to refuse planning permission unless there are other material considerations which indicate otherwise. Having specific regard to this particular proposal there are a number of relevant and material planning considerations, which are unique to this application site and the particular change of use proposed. These are set out below.

Marketing of the site

The application building has been vacant since July 2016 and actively marketed since September 2016. During the marketing period the premises had a marketing board on the front elevation of the building and was included within EHB's Commercial website whilst also being listed on a number of other

marketing websites. Due to a lack of interest in response to the website advertising the premises was also advertised in the local press from February 2017.

In total, EHB confirm there have been twelve viewings of the premises, none of which have amounted to any offers. Prospective tenants who have provided feedback to EHB have cited a number of reasons for their lack of interest in the premises, including (amongst other things) the nature of the building, its listed status, the scope of works necessary for future uses and commitment to a lease.

In their marketing appraisal and overview EHB are of the opinion that 2016 and 2017 has seen a drop, overall, in the number of office enquires.

The Acupuncture Academy Ltd (the applicant for this planning application) initially agreed a letting in July 2017. Their occupation of the premises is however subject to planning permission being granted for a change of use.

The proposal: who/what the business is and how it is proposed to operate

The Acupuncture Academy Ltd (TAA) was first incorporated as a limited company in 2011 and has been based at The Polish Centre in High Street, Leamington Spa since that time. The business has steadily expanded over these six years and achieved Full Accreditation status from the British Acupuncture Accreditation Board in 2015. Students who attend TAA are all mature (ranging between 24 and 60 with an average age of 42) and mostly come from professional backgrounds but are looking to make a major life/career change. Students travel from all areas of the UK as well as from Europe, Canada and Dubai but those who are international do not reside with TAA; rather they visit for class weekends. Students attend 17 class weekends over a 3 year period and in between those classes, study is online via an e-learning portal.

TAA is one of only nine current providers in the UK and the location in Leamington Spa is particularly attractive to local students as well as those from wider Midlands areas, London and abroad. This has much to do with the fact that Leamington Spa is famously linked with acupuncture, being the original home for the first UK training academy which opened in 1979. When it closed TAA formed itself to ensure the tradition was kept alive in this area and the style of acupuncture taught, commonly referred to as 'Leamington Acupuncture' is therefore not only unique to its lineage and recognised worldwide.

Although the primary element of the business is to teach acupuncture (D1) TAA also operates an on-site community (low cost) acupuncture clinic and additionally carries out clinical research in the field, as well as research and development of online course provision.

TAA currently provides employment for 21 people, plus the two directors. The predicted expansion on moving to Hamilton Terrace from its current location is 30% of turnover in the first year and 50% within three years, hence the employment opportunities offered at present would expand accordingly with an increase of staff in the region of 5-7 resulting in a total employee number of 26-28 by the year 2020.

The business is seriously constrained in its growth by the current circumstances in which it operates, which is principally down to the current premises, which

offers no security with the license only available on a month by month basis. In addition to this there are a number of other negative factors based on a combination of physical location, incidents of antisocial behaviour and trespass and poor relationships to neighbouring land uses, for example, being located below a dance school which is noisy and disruptive to many classes. Despite this the business has achieved an excellent reputation for quality of training and applications continue to rise for each intake of students. However, students are being lost through the present inability to accommodate them in the next intake. In summary therefore, while the business remains successful and steady, expansion as per the business's aspirations and as the market demands is not possible.

As a result TAA has been searching for more suitable premises for over six years and to date has not been able to find an affordable building which is configured in an appropriate way, or indeed *any* premises with a permitted D1 use. The space available and the layout of the application building is exactly as TAA needs it meaning no physical alterations are necessary internally or externally. Accordingly, the applicant submits that the proposed use of the building would ensure a viable future use for the building which, over the last 18 months, has attracted no interest from prospective tenants for B1 purposes.

The heritage implications of a vacant listed building

The building is Grade II listed and forms part of a terraced row of twelve buildings (Nos. 10-32 inclusive) which are collectively listed under one list description from 1970. The list description describes it as a complete terrace with symmetrical, Neo-classical design and much remains in the way of important external architectural features that cumulatively make a positive contribution to the significance of the heritage asset. While the application site only relates to No.32 which is the end unit, this single property makes up an integral part of a wider collective group of listed buildings that are read as one in terms of architectural and historic significance.

The building has been vacant for almost 18 months and with a continued period of active marketing demonstrating that there is no interest in the building for B1 purposes it is unknown how much longer it could remain vacant if the proposed change of use were not approved. In a scenario where planning permission were refused for the proposed change of use, and assuming the premises continued to be marketed to no avail, there is a very real risk that the building could remain empty for an indefinite period of time which would be undesirable from a heritage point of view. The longer the building remains empty the higher the probability of the building falling further into disrepair.

The proposals currently before Members, if approved, would result in the building being brought back into use thus eliminating any concerns about it falling into disrepair. Moreover, the type of use sought by the applicant is such that no physical alterations are required to the building, either internally or externally to facilitate the change of use, and as such the proposals would have minimal impact on the special architectural and historic significance of the listed building. This is considered further in the relevant section of the report below. It is therefore submitted by the applicant that bringing the building back into use would, as a consequence, lead to the refurbishment rather than the deterioration of the building and its features which will be at increasing risk while it remains vacant.

Conclusions on the principle of development

Having regard to all of the above considerations, it is submitted that notwithstanding the starting point for consideration of the principle of development, there are a number of relevant and material planning considerations weighing in favour of the development proposed. On balance, these would suggest that a departure from the policy would be wholly reasonable and justified based on the very specific circumstances advanced by the applicant, which are relevant not only to the particular business and its anticipated future operation, but also to the building from which it is proposed to be located.

Overall, it is therefore considered the principle of development is acceptable subject to an assessment being made of the other relevant considerations which are set out below.

Visual impact on the character of the area and street scene

No external changes are proposed to the building to facilitate the change of use so it is not considered the proposals would result in any visual harm to the general character of the area or the street scene. In view of the fact that the building has been vacant for eighteen months the proposed change of use is considered to bring about a positive benefit to the street scene on the basis that the building would be brought back into use hence facilitating ongoing maintenance of the building by its occupiers before it falls into disrepair.

Overall, the proposed change of use is considered to be acceptable in character and visual terms and would accordingly comply with Policy BE1 of the Local Plan.

Impact on heritage assets

Considerable importance and weight should be given to the duties set out in the Planning (Listed Buildings and Conservation Areas) Act 1990, when making decisions that affect listed buildings and conservation areas respectively. These duties affect the weight to be given to the factors involved.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, "In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses." Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, "In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

Policy HE1 of the Local Plan expects development proposals to have appropriate regard to the significance of designated heritage assets. Where any potential harm may be caused, the degree of harm must be weighed against any public benefits of the proposal. This reflects the wording of the Framework which, at paragraph 134 sets the same tests for consideration.

As set out above, there are no physical alterations proposed to the building, therefore, there can be no harm caused to the character and appearance of the Royal Leamington Spa Conservation Area. Similarly the material change of use occurring, in the absence of any physical works proposed internally to facilitate the change would not result in any material harm to the special architectural or historic interest of the listed building.

Accordingly, it is considered that the proposals to bring the building back into use after having been vacant for a period of time would preserve and enhance the significance of the relevant heritage assets and would not result in any degree of harm to them. For these reasons the development is considered to comply with Policy HE1 of the Local Plan.

Impact on neighbouring amenity

There would be no material impacts on the amenity of neighbouring buildings and/or land uses through the proposed development taking place by reason of overbearing or overshadowing since the physical building already exists. No further works are proposed that would increase the scale or footprint of the building and no new window openings are proposed that might increase overlooking. It is not anticipated that the change of use of the building from an office to a training/education centre would result in any demonstrable effects by reason of noise and disturbance to the occupiers of nearby buildings, especially given the majority of the buildings in closest proximity are also in commercial use.

Accordingly, it is considered that the proposals are acceptable in respect on neighbour amenity and the development complies with Policy BE3 of the Local Plan.

Highway safety and parking

Parking exists at the rear of the application site and this arrangement is proposed to continue as per the present situation. A total of seven spaces are available at the back of No.32 which, in accordance with the Council's Parking Standards, is considered to be sufficient for a D1 use of this nature. The development is therefore considered not to be detrimental to highway safety and accordingly complies with Policy TR3 of the Local Plan.

SUMMARY / CONCLUSIONS

The principle of development, on balance, is considered to be acceptable, having regard to all of the supporting information advanced by the applicant and assessment of the relevant and material considerations. It is not considered that the development would result in any visual harm to the character of the area or the street scene and the absence of any physical works proposed to the building means that there would be no harm to the significance of the designated heritage assets, namely the Grade II listed building and the Royal Leamington Spa Conservation Area. There would be no harm caused to the amenity of neighbouring buildings and/or other land uses and there is sufficient parking provision for the use proposed. For these reasons it is recommended that planning permission be approved.

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 titles 'Basement', 'Ground Floor', 'First Floor', 'Second Floor' and 1:250 Parking Plan and specification contained therein, submitted on 20 September 2017. **REASON :** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.
 - 3 The premises shall be used only as the specified training/education facility within Use Class D1 and for no other purpose within Use Class D1. **REASON:** In the interests of visual and neighbouring amenity as well as highway safety in accordance with Policies BE1, BE3 and TR1 of the Warwick District Local Plan 2011-2031.
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