
Appeal Decision

Site visit made on 7 February 2017

by Andrew Owen BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 February 2017

Appeal Ref: APP/T3725/W/16/3163647

104 Trinity Street, Leamington Spa CV32 5GY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Johal of Landlord Furniture Ltd against Warwick District Council.
 - The application Ref W/16/0818, is dated 4 May 2016.
 - The development proposed is part demolition of warehouse building, change of use of coach house and erection of two storey extension to form 4 cluster student accommodation of 2 x 6 beds and 2 x 7 beds.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Johal of Landlord Furniture Ltd against Warwick District Council. This application is the subject of a separate Decision.

Procedural matters

3. Amended plans were submitted during the appeal. These showed a different layout of the internal courtyard area, repositioned windows facing into the courtyard and an increase in the number of cycle parking spaces. I consider that the drawings do not fundamentally change the nature of the development and the alterations would not be visible beyond the site. Two additional rooflights are also shown which would be visible from outside the site. However, due to the number of rooflights originally proposed, I do not consider the introduction of two more would be likely to materially alter the effect of the development on the occupiers of neighbouring houses. As such, though the neighbouring residents have not seen the amended drawings, I do not consider they are prejudiced by this. The Council have however had the opportunity to comment on the amended plans and I have taken their views into account.

Main Issues

4. I consider the main issues are:
 - i) whether the proposal would provide acceptable living conditions for its future occupiers with regard to their privacy, outlook and noise;
 - ii) whether the development would provide satisfactory cycle storage;
-

- iii) whether the proposal should provide a contribution towards public open space provision and if so whether an appropriate mechanism for securing such a contribution has been provided.

Reasons

Living conditions

5. The proposal would entail the provision of 26 rooms of student accommodation, with ancillary facilities, in a two storey building surrounding a central courtyard. Six of the bedrooms would have windows facing the street, but the other 20 would have windows facing the courtyard.
6. The position and orientation of the windows facing the courtyard has been carefully designed so that each window does not directly face the window in the adjacent or opposite room. However an angled view would be possible between some opposing windows, for example between all the rooms identified as 'bed 2' on the plans. Also from the rooms identified as 'bed 5', views into the adjacent 'bed 4' rooms and more directly into the 'bed 4' and 'bed 3' rooms diagonally opposite would be possible. This would mean that the development would not provide sufficient privacy for its occupiers.
7. I accept that the design of these windows means that inter-visibility between the rooms would not be such that the whole of the rooms would be clearly visible. Nonetheless part of the bedrooms would be visible from other bedrooms and I do not consider it acceptable that an occupier should feel they cannot experience privacy in all parts of their room particularly as, aside from their bathroom, this would be their only private space. I also do not accept that the nature of the accommodation means the occupier of each room should not expect to benefit from degrees of privacy equal to any occupier of any other form of residential unit. Therefore, whilst the separation distances in the Council's Residential Design Guide Supplementary Planning Guidance are not directly relevant to the proposal, the principles of ensuring privacy are applicable.
8. Additionally, the view from the ground floor windows facing into the courtyard would be dominated by the face of the opposing elevation and the encircling nature of the courtyard. This would lead to a sense of enclosure and a restricted outlook which would be harmful to the living conditions of the occupiers, especially as each window would be the only one serving each bedroom.
9. I have carefully considered the other examples of student accommodation development quoted by the appellant. The development granted planning permission Ref W/16/1204 appears to not incorporate windows facing each other so is not directly comparable. That granted planning permission W/11/0122 would appear to have some similar elements such as windows facing into a common courtyard. However, there may have been other considerations which outweighed any perceived harm and so without full details of that case I cannot attest to its consistency with the case before me. Furthermore, notwithstanding the fact that each proposal must be considered on its own merits, the relationship between rooms in one development should not justify granting planning permission for the development before me if it would not provide acceptable living conditions, which would be the case in this appeal.

10. The amended plans indicate the majority of the courtyard would be planted so that it would only be used as a means of providing access to the rooms and not as a sitting out area. This would minimise the potential for overlooking into the ground floor rooms from the courtyard. This would also mean that the potential for residents to loiter in the courtyard and generate noise or cause disturbance to other occupants would be limited.
11. I note the concerns in the officer's report regarding noise attenuation between the room located in the south east corner of the building labelled 'bed 6' and the neighbouring property which is located below it and to its the east side. However correspondence from the Council's Environmental Health Officer¹ suggests that adequate sound insulation between these two properties could be secured by condition. It also suggests that suitable methods of ventilation could be provided for the rooms at the front of the building so that the occupiers would not need to open their windows to achieve ventilation. I cannot be certain that this correspondence relates to the proposals for the appeal site or the adjacent property to the east for which there were proposals for its conversion for residential use which involved the same planning agent. However the relationship between the appeal site and the local noise environment is comparable to that of the neighbouring property with the local noise environment, and therefore I am satisfied that any effects of noise from nearby uses on future occupiers of the development could be controlled by a planning condition.
12. In summary, I consider that the design of the development would mean that some of its occupiers would not be likely to have a sufficient degree of privacy and outlook and therefore they would not have acceptable living conditions. Consequently the proposal would conflict with Policy DP2 of the Warwick District Local Plan (the 'Local Plan') which requires development to provide acceptable standards of amenity for its future occupiers.

Cycle parking

13. The amended plans show 13 cycle parking spaces to be provided in a room at the front of the proposed building. This same space was shown on the original plans as accommodating eight cycle parking spaces. Whilst this increase in provision could appear contrived, I have no evidence to suggest it would be unfeasible for 13 cycles to be stored within this space. This number of spaces accords with the Council's requirement identified in their officer's report which, although not directly supported by their Vehicle Parking Standards Supplementary Planning Document, is not an unreasonable amount.
14. The Council made no specific reference to this point in their comments on the amended plans. As such, on the basis of the evidence before me, I conclude that the amount of cycle parking provided would be satisfactory and therefore the proposal would accord with Policy DP8 of the Local Plan which aims to encourage cycling by ensuring development takes account of the parking needs of cyclists.

Public open space provision

15. The Council have advised that a contribution of £16,328 would be required to go towards the improvement of Villiers Street, Clarendon Square or the Spa Gardens which are within 500 metres of the site.

¹ An email dated 10 January 2017

16. I consider, in light of the lack of any significant usable open space on site, such a contribution to off-site open space would appear to be reasonable. Moreover the Council have demonstrated how the figure has been calculated and thus the amount appears reasonably related in scale to the proposal.
17. However I have no evidence of the existing facilities in these open spaces or whether they would be unable to meet the additional demands placed on them by the occupiers of the development unless improvements are made. Moreover, I have no evidence of any Community Infrastructure Levy regime in place and in its absence I consider the improvement of these open spaces would be projects for which a limit of five pooled contributions should apply. It has not been suggested to me that less than five contributions have already been made towards these projects. As such, it has not been demonstrated that this obligation is necessary to make the development acceptable in planning terms, and I am therefore unable to take it into account.

Other matters

18. The submitted unilateral undertaking provided by the appellant also includes an obligation to pay £3,000 to amend a Traffic Regulation Order so as to remove the development from the resident's parking scheme. However the officer's report confirms this would be unnecessary as the development would not result in increased pressure on permit parking. In light of my conclusion on the main issues above I need not consider this obligation further.
19. The site is within the Leamington Spa Conservation Area (LSCA). The LSCA encompasses a large part of the town and, in the vicinity of the appeal site, is generally characterised by consistently attractive houses. However this part of Trinity Street is defined by the rear of these houses and is mostly characterised by garages or the commercial buildings that run up to the junction of Trinity Street and Beauchamp Road. Indeed the existing commercial building on site has little architectural merit and makes a minimal contribution to the significance of the LSCA. The frontage of the building would largely be retained and the part behind it would be demolished and replaced with the proposed shorter extension. Though the nature of the use of the site would change, I do not consider the new use would significantly affect the character of the LSCA, and the alterations to the building would have minimal effect on the appearance of the LSCA. As such I consider the character and appearance of the LSCA would be preserved. However this does not outweigh the unacceptable living conditions that the development would provide.
20. I understand there is a shortage of student accommodation, particularly in this part of the town, and that the proposal would contribute to the Council's housing supply. Nonetheless, this should not justify the development of student accommodation at any cost, and it does not warrant allowing this proposal which would not provide acceptable living conditions for its occupiers.

Conclusion

21. For the reasons given above, and taking account of all other considerations, I conclude that the appeal should be dismissed.

Andrew Owen

INSPECTOR