
Appeal Decision

Site visit made on 30 May 2017

by Alexander Walker MPlan MRTPI

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

Decision date: 16th June 2017

Appeal Ref: APP/T3725/W/17/3170951

25 Beauchamp Road, Leamington Spa, Warwickshire CV32 5RP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Rai against the decision of Warwick District Council.
 - The application Ref W/16/1823, dated 7 October 2016, was refused by notice dated 11 January 2017.
 - The development proposed is for the re-submission of W/16/0435 for the change of use from warehouse and flat, including demolition of the warehouse and flat, to a residential development of a single storey 2 bed dwelling, 5no three storey 4 bed town houses, 2no 2 bed apartment and 1no 3 bed apartment (replacing existing).
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from warehouse and flat, including demolition of the warehouse and flat, to a residential development of a single storey 2 bed dwelling, 5no three storey 4 bed town houses, 2no 2 bed apartment and 1no 3 bed apartment (replacing existing) at 25 Beauchamp Road, Leamington Spa, Warwickshire CV32 5RP in accordance with the terms of the application, Ref W/16/1823, dated 7 October 2016, subject to the conditions contained within the schedule attached.

Preliminary Matters

2. A signed and dated unilateral undertaking, dated 6 April 2017, was submitted with the appeal. The undertaking relates to the provision of a financial contribution towards open space and I shall refer to this later in the Decision.

Main Issues

3. The main issue is whether the development would preserve or enhance the character or appearance of the Royal Leamington Spa Conservation Area and the effect on open space.

Reasons

4. The appeal site is located within the Royal Leamington Spa Conservation Area (the CA). The CA encompasses a large area of the town centre. The area around the appeal site is mixed use in character with commercial properties, including the appeal site, centred on the junction of Beauchamp Road and Trinity Street and large residential period properties located on the nearby roads of Binswood Avenue and Beauchamp Avenue. The commercial properties on Beauchamp Road and Trinity Street are more modern and utilitarian in their appearance compared to the grandeur of the properties on

the neighbouring avenues. Whilst residential properties in the locality are generally single dwellings, there are nevertheless some substantial properties, most notably the grade II* listed Audley Binswood Retirement Village. Overall, the varied style and sizes of properties makes a positive contribution to the character and appearance of the CA.

5. The appeal site currently comprises a large single/two-storey property with a vacant commercial unit at ground floor and a flat at first floor. The commercial unit comprises a large workshop area with large openings onto Trinity Street and Beauchamp Road and a show room/shop front with large glazing accessed off Beauchamp Road. Due to the commercial nature of the building and its limited noteworthy architectural features it has an awkward relationship with the adjacent period residential properties on Binswood Avenue. Whilst it does relate well with the other neighbouring commercial properties, these similarly lack in any architectural merit. Consequently, the existing building does not make any particularly positive contribution to the character or appearance of the CA. I have been referred to the site's history and that it was potentially a livery stable. However, there is no substantive evidence before me of what the original Binswood Mews building looked like.
6. The proposed building would infill much of the appeal site although space would be retained at the rear of the properties to provide private garden areas. Whilst other properties in the area have greater spacing between and around them, the utilisation of much of the appeal site for the proposed building would not appear as overdevelopment. It would have similar separation distances with other properties as the existing building.
7. The majority of the building would be three-storey in height although this would drop down to single-storey at the point adjacent to No 38 Binswood Avenue and two-storey at the point adjacent to the adjoining commercial unit on Trinity Street. As a result of the three-storey elevation fronting Beauchamp Road and the increase in the ridge height from the existing, the building would be significantly larger than the existing commercial building. However, the three-storey parapet features on the Beauchamp Road elevation would break up the roof eaves of this elevation. Furthermore, the hipped roofs and use of banding at first floor level would assist in breaking up its vertical emphasis, reducing the visual impact of its height. In addition, the use of detailed openings and appropriate window proportions would further break up the massing of the elevation and introduce visual interest to the road frontage. This detailing is similar to other properties in the locality, in particular Binswood and therefore would provide some visual cohesion between the two roads where there is currently none.
8. Whilst the building would be larger than the immediate surrounding properties, adequate spacing, particularly with No 38 Binswood Avenue due to the single-storey element, would ensure that it would not appear unduly dominant in the streetscene. There are other large properties on Beauchamp Road, including a large two-storey building to the south east on the opposite side of the junction of Beauchamp Road and Trinity Street, the Kingsley High School complex to the south and the Audley Binswood Retirement Village to the north the large. Therefore the proposed building would not appear incongruous in the streetscene. Furthermore, three-storey townhouses are

found nearby, including on Binswood Avenue, which are of a similar scale to that proposed.

9. Although the development would abut the rear of the pavement, whereas the other large properties are set back to some extent, I do not consider that this would have a significantly harmful overbearing effect on the character or appearance of the area, particularly as the existing building is similarly positioned, albeit not as high as that proposed.
10. I find therefore that the replacement of the existing building with the proposed would enhance the character and appearance of the CA. As such, it would comply with Saved Policies DP1 and DAP8 of the Warwick District Local Plan (the LP) 1996 – 2011, which, amongst other matters, seek to ensure that new development respects surrounding buildings in terms of scale, height, form and massing and preserves or enhances the special architectural historic interest and appearance of Conservation Areas. Furthermore, it would accord with Policies BE1 and HE2 of the emerging Warwick District Local Plan (the ELP), which seek to ensure that development positively contributes to the character and quality of its environment through good layout and design and makes a positive contribution to the local character and distinctiveness of the Conservation Area.

Open Space

11. The planning obligation in the unilateral undertaking has to meet the tests in the Community Infrastructure Levy Regulations (CIL) Regulation 122 in order for them to be taken into account in my determination of this appeal. These tests are that the obligation is necessary to make the development acceptable in planning terms; directly related to the development; and, fairly and reasonably related in scale and kind to the development. These tests are also identical to those set out in paragraph 204 of the Framework.
12. The planning obligation provides for a payment of £16,328 to be made as a commuted sum for open space in lieu of on-site provision in accordance with the Council's Open Space Supplementary Planning Document and their Developer Contributions for Commuted Payments for New Provision/Enhancement of Open Space. The sum would be directly related to the development. It is calculated on the basis of the expenditure required for enhancing open space. The Council's standard scale of charges is not disputed.
13. The proposal includes houses suitable for family housing. I therefore anticipate that the demand for open space facilities would increase and that the contribution would be fairly and reasonably related in scale and kind.
14. The Council confirm that the contribution would be put towards the local open spaces within approximately 10 mins walk of the appeal site and the most likely recipients would be Villiers Street, Claredon Square or the Spa Gardens. However, there is no evidence before me of the current condition of these open spaces or how the proposal would have a detrimental effect on them. Whilst the proposal could be expected to increase the use of these open space facilities, there is no tangible evidence of a quantitative shortfall in provision.

15. Moreover, I have had regard to the recent appeal decision¹ referred to me by the appellant. The Inspector found that there was no evidence of a Community Infrastructure Levy regime in place and in its absence he considered that the improvements of the open spaces would be projects for which a limit of five pooled contributions should apply. Based on the evidence before me I make a similar finding. There is no indication of how many contributions have been made towards these projects. Therefore, I am not satisfied that it has been demonstrated that the obligation is necessary to make the development acceptable.
16. I therefore consider, on the basis of the information presented to me, that the contribution is not necessary to make the development acceptable in planning terms. Having regard to Regulation 122 I am therefore unable to take account of this obligation. The Council confirms that there is open space provision nearby and well related to the proposed development. There is no evidence that it is deficient. As such, I consider that living conditions for future occupiers in this respect would be satisfactory and there would be no harm to the existing provision of open space.

Other Matters

17. I acknowledge the apprehension from local residents regarding the effect of the development on their living conditions with regards to privacy and light. Whilst some of the upper floor windows in the east elevation would face No 40 Binswood Avenue, there would be adequate separation between the properties to ensure that there would not be any significant adverse loss of privacy through overlooking. In addition, due to the oblique angle of the upper floor windows in relation to the rear of No 36 Binswood Avenue, therefore would not be any significant overlooking effect.
18. The upper floors of the building would be closer to the rear conservatory at No 38 Binswood Avenue than the existing building, which would likely result in the loss of some direct sunlight throughout the day. However, given that the conservatory is fully glazed, this loss would unlikely be to such an extent that it would significantly harm its usability or function as a conservatory due to an insufficient amount of light.
19. Concerns have been raised by local residents and the Royal Leamington Spa Town Council regarding parking problems in the area. The proposal does not propose any on-site parking provision. The appellant has submitted a car parking survey that was carried out three times a day over a period of a week. The results of the survey indicate that there is sufficient unrestricted on street parking within a 100m radius of the site to accommodate the parking provision required by the development during the evenings and at night during peak residential demand.
20. During my site visit I noted that there was a significant amount of on street parking within the vicinity of the appeal site. There was a significant amount of vacant spaces available to accommodate the proposal. I appreciate that this was only a snap shot in time. Nevertheless, it corroborated the findings of the survey. Whilst I acknowledge the problems experienced by local residents, there is no substantive evidence to contradict the results of the survey. I have also had regard to the sustainable location of the site and its accessibility to

¹ APP/T3725/W/16/3163647

services and facilities, therefore reducing the need for private transport. Overall, I do not find that the lack of on-site parking provision would severely harm highway safety.

21. The proposed residential units would all have a bin storage area contained within the site and out of public view. Therefore, whilst bins would be presented on the street during collection days, they would otherwise not have any impact on the streetscene.
22. I note the concerns raised regarding the proposed development becoming a house in multiple occupancy and the intentions of the appellant. However, I have determined the appeal based on the proposal as described in the planning application only.
23. I have had regard to the size of the rear gardens for the proposed dwellings. Whilst they are modest in size I see no reason why they would not provide a functional space for the occupants of the dwellings. In addition, there are a number of open space areas within the vicinity of the site. Therefore I find that the outdoor private space provision is adequate.
24. During my site visit I observed that the building is currently in a state of disrepair. I note that the property has been unsuccessfully marketed and the restoration works required to bring it back into use would be significant and expensive. Accordingly, I find no substantive reason to conclude contrary to the Council's findings that the principle of losing the employment use of the site in this instance is acceptable.
25. The appellant confirms that the Council cannot demonstrate a five year supply of deliverable housing sites. This is not disputed. Accordingly, paragraph 14, bullet 4 of the National Planning Policy Framework (the Framework) is engaged. The proposal would make a positive contribution towards the shortfall in housing provision which I attribute significant weight in favour of the proposal.

Conclusion

26. The proposal would make a positive contribution towards the shortfall in housing supply and would enhance the character and appearance of the CA. It has not been demonstrated that there would be any adverse impacts that would significantly and demonstrably outweigh these benefits, when assessed against the policies in the Framework taken as a whole. Therefore in accordance with paragraph 14 of the Framework, planning permission should be granted.
27. For the reasons given above, having regard to all matters raised and assessed against the Framework taken as a whole, the appeal is allowed.

Conditions

28. I have had regard to the various conditions that have been suggested by the Council. For the avoidance of doubt it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans.

29. In the interests of the character and appearance of the area conditions are necessary regarding materials, doors, windows, eaves, verges, rainwater goods and refuse storage.
30. Conditions are necessary requiring the use of renewable energy resources or a reduction in CO² emissions in the interests of achieving sustainable development.
31. In the interests of safeguarding neighbouring residential amenity, a condition is necessary regarding the submission and implementation of a Construction Method Statement.
32. A condition requiring an appropriate drainage system to be implemented is necessary in the interest of minimising flooding.
33. For reasons I have given above, a condition is not necessary with regard to the provision of open space.
34. It is essential that the requirements of conditions 7 and 9 are agreed prior to the development commencing to ensure an acceptable form of development in respect of ensuring the development reduces carbon emissions and safeguards residential amenity.

Alexander Walker

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 940 – 01 Rev A, 940 - 02 Rev C, 940 - 03 Rev B, 940 - 09, 940 - 10, 940 - 11 and 940 - 12.
- 3) Other than site clearance and preparation works no works shall commence until details of doors, windows (including a section showing the window reveal, heads and cill details), eaves, verges and rainwater goods at a scale of 1:5 (including details of materials) have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) Other than site clearance and preparation works no works shall commence on the construction of the development hereby permitted until samples of the external facing materials to be used have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) All window and door frames shall be constructed in timber and shall be painted and not stained and shall be retained as such thereafter.
- 6) All rainwater goods for the development hereby permitted shall be metal and shall be retained as such thereafter.
- 7) No development shall commence until a scheme showing how either a). at least 10% of the predicted energy requirement of the development will

be produced on or near to the site from renewable energy resources, or
b). a scheme showing how at least 10% of the energy demand of the development and its CO² emissions would be reduced through the initial construction methods and materials has been submitted to and approved in writing by the local planning authority. The development shall not be first occupied until all the works within the approved scheme have been completed and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturer's specifications.

- 8) If an air source heat pump is chosen as the method to comply with the requirement of condition 4, noise arising from the air source heat pump(s) permitted, when measured one metre from the facade of any noise sensitive premises, shall not exceed the background noise level by more than 3dB (A) measured as LAeq (5 minutes). If the noise in question involves sounds containing a distinguishable, discrete, continuous tone (whine, screech, hiss, hum etc.) or if there are discrete impulses (bangs, clicks, clatters, thumps etc.) or if the noise is irregular enough to attract attention, 5dB(A) shall be added to the measured level.
- 9) No development shall commence until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved statement shall be strictly adhered to throughout the construction period and shall provide for: the hours of construction/ demolition works, the storage of plant and materials used in constructing the development; the erection and maintenance of a security hoarding including decorative displays; to control the emission of dust and dirt during construction; and, a scheme for recycling / disposing of waste resulting from demolition and construction works.
- 10) The development hereby permitted shall only be undertaken in strict accordance with drainage details, incorporating a Sustainable Drainage System (SUDS) and responding to the hydrological conditions (soil permeability, watercourses etc) within the application site, including a long term management and maintenance plan, which have been submitted to and approved in writing by the local planning authority. The approved systems shall be installed prior to the occupation of the first residential unit hereby approved and shall thereafter be retained, managed and maintained in strict accordance with the approved details.
- 11) The development hereby permitted shall not be occupied until the external refuse storage areas for the development have been constructed or laid out, and made available for use by the occupants of the development and thereafter those areas shall be kept free of obstruction and be available at all times for the storage of refuse associated with the development.