



Appeal Decision

Site visit made on 3 June 2025

by Andreea Spataru BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 July 2025

Appeal Ref: APP/T3725/W/25/3361607

Flat 2, 6 Warwick New Road, Leamington Spa, Warwickshire CV32 5JF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr R Bhopal (Greenbull Ltd) against the decision of Warwick District Council.
 - The application Ref is W/24/1129.
 - The development proposed is described as 'change of use of apartment C3 to HIMO C4 (Retrospective)'.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of 2 bedroom apartment (Use Class C3) to a 3 bedroom House in Multiple Occupation (Use Class C4) at Flat 2, 6 Warwick New Road, Leamington Spa, Warwickshire CV32 5JF in accordance with the terms of the application ref W/24/1129, subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with drawings: location plan and ground floor plan drawing no 813-01 dated August 2024.

Preliminary Matters

2. The appeal site's address above has been taken from the appeal form, rather than the application form, in the interest of precision.
3. The description of development in the decision above has been taken from the Council's decision notice and the appeal form, rather than the application form, as it is more precise.
4. The application form indicates that the change of use has started in November 2011. The appellant's statement indicates that the appeal site has been used intermittently as a House in Multiple Occupation (HMO) and that its current use is as a 3-bedroom HMO. Accordingly, the appeal development is retrospective, and I have considered the appeal on this basis.

Main Issue

5. The main issue is the effect of the development on the living conditions of the occupiers of neighbouring properties, with particular regard to noise and disturbance.

Reasons

6. The appeal site relates to an apartment situated at the ground-floor level, in a residential building, in Leamington Spa Conservation Area (LSCA). The site is located in an area covered by an Article 4 Direction which removes permitted development rights for the change of use of a single dwellinghouse in use Class C3 to a house in multiple occupation in use Class C4 of the Town and Country Planning (Use Classes) order 1987 (as amended).
7. Policy H6 of the Warwick District Local Plan 2011-2029 adopted 2017 (LP) states that planning permission will only be granted for HMOs where, amongst other things, the proposal does not result in a non-HMO dwelling being sandwiched between two HMOs. One of the purposes of this policy is to prevent unacceptable adverse impacts on amenity, which reflects the aims of the Article 4 Direction.
8. The appeal development seeks retrospective permission for the change of use from C3 to C4 HMO and to regularise the increase in the number of bedrooms from two to three. The appellant indicates that the appeal site has been used as a 3-bedroom HMO occupied by 3 people since July 2022.
9. The ground-floor of the appeal site's building accommodates 3 residential units: No 2 (the appeal site), No 4, which the Council indicates is an HMO, and No 3, which is a studio-flat in C3 use. The Council's concerns are related to the effect of the development on the living conditions of the occupiers of No 3, with particular regard to noise and disturbance.
10. Nos 2 and 3 are situated to the front of the building and are separated through a hallway. No 4 is located towards the rear of the building and is separated from No 3 through a hallway and staircase. Thus, given the layout of the building, No 3 is not situated in between No 2 and No 4. Taking into account the potential for each occupant of No 2 to have individual schedules, deliveries and visitors, there is likely to have been some intensification of activity when compared to an apartment occupied by a family. Notwithstanding the potential increase in the levels of activity, given the layout of the building and the siting of the appeal site in relation to No 3, any associated increase in noise would have been limited and it has not been demonstrated that this has resulted in problematic levels of disturbance. This is particularly relevant as the evidence indicates that the property has been used as an HMO for some time.
11. Accordingly, the development is not, either individually or cumulatively, causing significant harm to the living conditions of the occupiers of No 3, with regard to noise and disturbance. Thus, there is no conflict with the aims of LP Policy H6, as set out above. Whilst not referenced in the decision notice, the Council asserts in the Planning Officer's report that the development is contrary to LP Policy BE3. Given my findings above, I conclude that the development also accords with LP BE3, as it has an acceptable effect on the amenity of nearby residents.

Other Matters

12. The appellant's statement indicates that neighbouring building, No 8 Warwick New Road, is a grade II listed building. Accordingly, the appeal development is within the setting of a grade II listed building, in the LSCA. Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require me to pay special attention to the desirability of preserving or enhancing the character or

appearance of a conservation area and preserving the setting of the listed building. Given my site visit observations of the surrounding area and the nature of the development, which involves no external alterations, I am satisfied that the development has a neutral effect on the heritage assets.

Conditions

13. The Council has suggested a condition to secure the submitted plans. I have imposed the standard condition concerning compliance with the submitted plans in the interests of precision and certainty.

Conclusion

14. For the reasons given above I conclude that the development complies with the development plan as a whole. Therefore, the appeal is allowed.

Andreea Spataru

INSPECTOR