

REPORT TO THE WESTERN AREA PLANNING COMMITTEE

Date of Meeting	16 October 2013		
Application Number	W/12/02347/FUL		
Site Address	Kingston Mills, Kingston Road, Bradford On Avon, Wiltshire		
Proposal	Change of use of the first floor of Building T (also known as the Lamb Building) from Restaurant and Offices to Five x Residential Units and associated internal works comprising sub-division and associated works		
Applicant	Linden Homes Western Ltd		
Town/Parish Council	Bradford On Avon		
Electoral Division	Bradford On Avon South	Unitary Member:	Cllr Ian Thorn
Grid Ref	382748 160897		
Type of application	Full Plan		
Case Officer	Jemma Boustead	01225 770344 Ext 01225 770211 Jemma.Boustead@wiltshire.gov.uk	

REASON FOR THE APPLICATION BEING CONSIDERED BY THE PLANNING COMMITTEE

This application was deferred at a previous meeting of the Committee to allow the agent to clarify inconsistencies within the submitted application details and for a meeting between the applicants and the Town Council. This meeting has since taken place.

Councillor Thorn supported the previous Councillor Hewson's request that the application be called to the Planning Committee for the following reason:

The change of use would have a significant and deleterious effect on the commercial vision for the site and the town that was accepted by the developer in the originally granted application for this site.

1. Purpose of Report

To consider the above application and to recommend that planning permission be granted

2. Report Summary

The main issues to consider are:

- principle of development
- design issues, impact upon the immediate area and listed building
- impact on amenity
- highway and access considerations

3. Site Description

This application relates to the Kingston Mills Development in Bradford on Avon. The particular site in question is the unit above the existing restaurant to the rear of the Budgens shop.

4. Relevant Planning History

06/02394/FULES - Comprehensive mixed use re-development comprising 170 dwellings, commercial floor space and associated works. - Approved 30/10/08

06/2400/LBC - Comprehensive mixed use re-development comprising alterations to Buildings 2, 43-44, 53, 55, 70, 76, 77 second floor extensions to Building 70, demolition of Buildings 41, 42, 61, 62-65, 68, 71, 72, 73, 75, 78 and associated works - Approved 08/02/08

Although not related to this specific site Wiltshire Council have recently lost an appeal for housing on a site in Devizes which was allocated for employment in the Kennet Local Plan (Bureau West, Horton Road, Devizes E/2012/0268/FUL) . Wiltshire Council had interest from businesses who wanted to use the site but due to the need for housing in the Wiltshire Area and the availability of business premises elsewhere in the locality and the absence of the site from the Wiltshire Employment Land Survey the Inspector allowed the appeal.

5. Proposal

This application relates to the Kingston Mills Development in Bradford on Avon. The particular site in question is above the existing restaurant to the rear of Budgens shop. This application seeks to change the use of the first floor from a mix of restaurant (214.1 sq metres) and B1 (209.9 sq metres) to residential to form 5 dwellings (3 2-bed and 2 1-bed). No external changes are being made to the dwelling. The floor space of this unit is 424 sqm.

The building itself is Grade II Listed and as such a listed building application is running in parallel to this application and is dealt with in the report following this one.

It is also important to highlight that there is another planning application for the change of use from business to residential which is subject of a separate report. set out above on this agenda (W/12/02346/FUL)

6. Planning Policy

West Wiltshire District Plan 1st Alteration 2004

H1 Further Housing Development in Towns; H16 Conversions of Properties to Flats; C4 Landscape Setting

C15 Archaeological Assessment; C17 Conservation Areas; C19 Alterations in Conservation Areas

C28 Alterations and Extensions to Listed Buildings; C30 Skylines; C31a Design; C38 Nuisance

Wiltshire Local Transport Plan 2011-2026: Car Parking Strategy

National Planning Policy Framework (NPPF)

7. Consultations

Town Council - Object. The mixed use scheme for this site was subject to extensive consultation and negotiation and needs to be implemented as permitted in order to achieve a properly sustainable development. The Kingston Mill development has been accepted as essential to the regeneration of the town centre and the success of this would be adversely affected by these proposals. The provision of additional residential units will adversely affect the economic, social and environmental balance of the project and is therefore contrary to the NPPF and the emerging core strategy. The proposal is also contrary to Policy E5 and the arguments presented to justify the proposed change of use is flawed. The availability of the space needs to be designed as space available in the town and not in the whole of the Western Wiltshire Area. Similarly reference to Kingston Farm should be disregarded. In addition information regarding the efforts made to market the commercial space indicate a passive approach with no evidence of active promotion. The provision of 8 additional dwellings will add to the already overstretched facilities for parking and refuse on the site.

Bradford on Avon Development Trust - Object - The developers website is not up to date with current photos of the business units and does not do a good job of selling the units. The starting price of £15/sqft is well above the going rate for the town which is more like £10/£12/sqft and therefore it prices people out of the market. In October/November 2012 a considerable number of advertising boards suddenly appeared which were clearly visible to the 20,000 vehicles that cross the bridge every day. This was the first time that such an obvious and low-cost form of advertising have been tried. The loss of employment will not be supported in accordance with Core Policy 35 of the Core Strategy which will help address the historic loss of employment land in the town due to market forces and the attractiveness of Bradford on Avon to retired people, second home owners and commuters which have exerted pressure on former employment sites in the town to be converted to residential use. No proactive record of marketing has been carried out. There is evidence that prospective tenants/purchasers wishing to acquire space but who have withdrawn through a lack of agreement over terms.

Wiltshire Council Conservation Officer - No Objection

Wiltshire Council Economic and Regeneration Officer - Support

Environment Agency - No Objections subject to an informative regarding flood defence

Environmental Health - No Objections subject to conditions

English Heritage - The application should be determined in accordance with your specialist advice

Wiltshire Council Highways - No objections

8. Publicity

The application was advertised by site notice/press notice /neighbour notification. Expiry date: 22nd February 2013

Wiltshire Council received 15 letters of objection from the general public raising the following concerns:

- Parking is already a problem on the site and more residential properties will exacerbate this problem.
- Bradford on Avon is a prime example of death by traffic and removing local places of employment is only going to create more traffic.
- For a sustainable future there should be places of work for local people. Planning was granted on the basis of giving balance to the local needs. To ask high rents and the lack of marketing is a not so subtle way of trying to prove there is no need so the Planning Permission can be changed to the commercial advantage of the developers. I trust our councillors and officers can see though veiled attempt to be manipulated and ensure the community are given the balanced development that took so many years to formulate.
- As a local shopper and resident I have heard from a number of sources that when businesses have approached Linden Homes for occupation of business units the developer has ultimately put them off. This is apparently done by not progressing the premises in terms of completing them and generally making excuses to the point where the businesses who wanted to move in, lose enthusiasm. The whole point of the development was that it was mixed use with businesses in town. This echoes National Planning Guidance in the form of the NPPF and town centre vitality and also is in line with Wiltshire's emerging Core Strategy which is about reducing the need to travel to work eg in this case, to Bath.
- Site has not been completed and sold and the estate is already struggling with parking and refuse.
- the retail units attract people to the development and adds interest to a fascinating historic area of the town as well as bringing valuable enterprise and employment opportunities into the centre of Bradford. If the application is allowed to go ahead the development is in danger of becoming yet another bland housing scheme without any activity during the day
- This is our town centre, we need vibrant retail/office space to promote and encourage local shopping, reducing environmental impact and building a stronger community , please do not allow this change of use
- There are more than enough residential units on the Kingston Mill development; allowing change of use on commercial units is completely against the spirit of a mixed use development and should be resisted.
- It is essential for the future of Bradford on Avon that we have commercial space in the centre of town. We do not want to become a dormitory town, but one where small businesses can thrive. Planning permission was originally given for the development of Kingston Mills as mixed use and this was for a very good reason. I see no reason why this should change. The success of the nearby Glove Factory in Holt shows good commercial space is in demand.
- Maintaining commercial property is much more important for the local economy and community of Bradford on Avon than it is for Linden Homes to further fill their pockets.
- Linden Homes were given this contract for a mixed commercial and residential site. It is now utterly cyclical that, within such a short time, they are trying to go back on that agreement. The future of Bradford relies on a proper mix of business. It will kill the town centre if it becomes a mere dormitory suburb.
- The Lambs Yard development is a fantastic addition to the character of the town as long as it grows as a retail/commercial hub. The monthly market demonstrates the community

atmosphere that is created when townfolk gather to shop together. This would be ruined if the development was allowed to become more residential. It has also become clear that the developers have been actively discouraging retail tenants (ask Chandni Chouk) as a means of justifying the change of use. This is cynical at best, fraudulent at worst.

- When we purchased our apartment it was on the basis of the development being "a mixed use site"--it is now in danger of becoming a retirement/holiday home site as plans for offices and shops are cancelled
- Linden Homes and their related parties have been failing in provisioning and ensuring we the residents have been provided with and supplied (having access to) services and amenities we have been duly paying for since March 2011! They sold us an apartment with allocated parking bay, which is not 'enforced' on a regular basis. Furthermore in March 2011 at the point of completion we have been led to believe that there is a visitors parking space provision. Without any consultation with residents they simply removed these spaces and 'gave' them to affordable housing! This in a nutshell demonstrates insufficient basic amenities on the development, lack of developer corporate, personal, legal and or any other responsibility.

9. Planning Considerations

9.1 PRINCIPLE OF DEVELOPMENT

The site is located within the settlement boundary of Bradford on Avon where the principle of new residential development is considered to be appropriate. As the building is existing and there are to be no external changes it is considered that there would be no implications to flood risk or archaeology or any impact on the landscape quality or skyline of the town. The proposal is therefore considered to comply with Policies H1, C4, C15 and C30.

Policy H16 relates to the conversion of buildings to flats. The proposal is not considered to be an over intensive sub division, would not have an adverse affect upon the external appearance of the building, complies with the parking requirements, has suitable recreation facilities within the immediate vicinity, would not cause any neighbouring amenity issues and would not be subject to flood risk. The proposal is therefore considered to comply with Policy H16.

The proposal sees the loss some business floorspace and therefore Policy E5 needs to be taken into consideration which states that the loss of any employment floorspace will only be permitted where the following criteria are satisfied:

- (i) there is an adequate supply and mix of genuinely available land and premises elsewhere in the locality for employment uses;
- (ii) such proposals are compatible with neighbouring land uses and do not create bad neighbour uses;
- (iii) such proposals do not give rise to, or continue existing traffic or environmental problems.

The proposed change of use to residential is considered to be compatible with neighbouring land uses and would not give rise to or continue existing traffic problems. The loss of employment floorspace will be looked at in the following section.

There are no policies within the local plan that prevent the loss of a restaurant to residential at first floor level and therefore in relation to employment space, this application is looking at the loss of 209 square metres of employment space.

9.2 ECONOMIC

The Council's Economic Regeneration Officer has stated that historically there has been a gradual but persistent loss of employment land in the town to the extent that the town now offers a low range of employment opportunities and has a high level of out commuting to Bath. The Kingston Mill site is located within the town centre and is of mixed use and comprises approximately 160 dwellings, 680sq m retail, 1120 sq m restaurants/cafes and 2278 sq metres office space. The scheme was approved on the basis that it would provide jobs for local people and be a corner stone of Bradford on Avon's town centre regeneration. The historic centre is extremely constrained in terms of development potential and the Kingston Mills site was the only remaining town centre site capable of accommodating office space of a reasonable size. It is a highly sustainable location being within easy walking distance of the train station and all town centre amenities.

Evidence collated by Wiltshire Council and independent consultants suggests that based on growth projections there is a need to deliver between 2 and 3 hectares of new employment land at Bradford

on Avon up to 2026. The draft Core Strategy now includes a strategic site for mixed use development to the south east of the town at Kingston Farm. It is a strategic objective of the draft Wiltshire Core Strategy to deliver a thriving economy and also states that the loss of employment land in Bradford on Avon will not be supported.

Extensive negotiations have taken place between the Development Management Team, the manager from Economic Regeneration and the developers. Subsequent marketing information has been submitted to the Local Planning Authority which shows how the units have been marketed (which includes Newspapers, Estate Agents, websites, Caters Advertisers, Marketing Brochures and on site advertisement), showing who has had interest in the units and the reasons why they have not been taken up. This particular unit has been marketed since February 2010. The majority of the reasons why offers have not been brought forward relate to parking requirements.

The building under consideration has a restaurant and supermarket on the ground floor and residential on the second floor. It has good views over the river and has only three allocated parking spaces. The entrance to the site is via a side entrance which is shared with the residential element above and the unit in its existing form needs considerable work for conversion as there are a number of columns through the centre of the space. Access to the toilets are also located by the stairs to the residential properties above. There has been interest from a gym operator for this space, however such an operation could adversely affect the neighbours living above.

The cost of the units has been subject of concern by different objectors. The site has been marketed at a price of £15 sq ft and when compared to prices in other towns and the current economic market this is considered to be high. However the developer has confirmed that the quoting rent is £15 sq ft but is looking to achieve around £12 sq ft and rent free months have been included within any negotiations. Concerns have been raised by the general public that the developer has been putting potential purchasers off, thereby increasing the potential for residential. The Local Planning Authority have requested through the people that have phoned to highlight this issue and that businesses who have apparently had problems in letting premises on the Kingston Mills site should come forward and to date nothing has been received. As such this matter cannot be taken into account as a material consideration on this application.

The developer has been reasonably successful in letting the majority of the retail units within the development and the remaining available units are considered not to be suitable for residential or office use. The developer is also confident of their ability to let them. The developer has also let some office units on the site and therefore there is clearly some market interest in smaller office units in this location and a willingness to pay a reasonably high rate in Wiltshire. The office space in this building has access to only 3 parking spaces and therefore many people who have been interested in the site have been deterred.

Recent legislation issued by the Government allows units previously used for business uses to be converted to residential uses for a temporary period of three years. The unit subject of this application would not be able to convert to residential under these regulations as the unit is new, has never been used for employment and there is also a condition on the original application that restricts the employment uses changing to any other uses. However it does highlight the concerns of the Government over existing empty B1 units at first floor level and therefore this is a material planning consideration.

Due to the uses below and above the floor space subject of this application and its access to the building alongside the conversion works that need to be undertaken, it is considered that it would not be viable for a business use to be in this particular location. These matters are considered to be a material planning consideration when making a recommendation on this application and therefore as the unit is considered to be unsuitable for office use the proposed change of use to residential is considered to be appropriate.

It is also considered that the loss of 209 square metres of employment floor space is considered to be relatively small when compared to the 2278 sq metres that was approved for office space and that this loss would not have a significant or detrimental impact upon available employment spaces within Bradford on Avon.

It is not considered that by approving this application it would set a precedent for other units on the site to change to residential as site specifics have been taken into consideration (namely the siting and location of the unit in question). It has also been made clear to the developer that no other change of use of business units to residential other than those subject of current planning applications would be welcomed. Due to the number of other available units that are available to let on the site and the units that are already being occupied, the site would still remain as a mixed use site. It is also considered that this proposal would not have an impact upon the strategic employment site at Kingston Farm where the units are larger and there is considerably more room for parking.

9.3 DESIGN ISSUES & IMPACT UPON THE WIDER AREA & LISTED BUILDING

There are no external changes being proposed as part of this application and therefore it is considered that there would be no impact upon character and appearance of the Conservation Area and Grade II Listed Building. It is therefore considered that the proposed changes would comply with Policies C17, C19, C28 and C31a of the Local Plan.

9.4 IMPACT UPON AMENITY

It is considered that the proposal would not have an impact upon neighbouring amenity in terms of overlooking or overshadowing as the building and windows/doors are existing. There are also no immediate residential properties that can be overlooked or overshadowed.

Noise from the restaurant below is not considered to be a nuisance to the proposed units as there were existing residential properties immediately above the restaurant on the second floor.

Budgens has an existing plant room on the first floor and to ensure that the residential properties would not be affected an acoustic report was submitted. It is considered that the findings of this report are appropriate and therefore should the application be approved a condition should be attached ensuring that the report is complied with. A further condition would also be required to measure noise levels once the dwellings have been completed.

It is therefore considered that with suitable conditions the proposal would comply with Policy C38.

9.5 ACCESS AND HIGHWAYS

Access to the site will not be changed as part of this application. 1 car park space is being provided for each of the 2 bed units and no parking for the one bed units. The proposed parking is in accordance with the parking provision originally approved at Kingston Mills and therefore is considered to be acceptable.

9.6 OTHER

Many of the objections received relate to existing problems regarding parking and refuse, these issues have been acknowledged however this application is unable to overcome existing problems and therefore are not able to be taken into consideration when making a recommendation on this application.

9.7 CONCLUSION

It is considered that as the proposal complies with the relevant policies of the development plan, the proposal is recommended for Approval subject to a supplemental agreement to the original Section 106 to ensure that the residential properties comply with the previous requirements.

Recommendation: Permission

Planning permission be granted at a future date subject to the Area Development Manager being satisfied to the completion of a supplemental planning agreement to ensure the residential properties subject of this permission comply with the original Section 106 Legal Agreement attached to 06/02394/FULES

For the following reason(s):

In accordance with paragraph 187 of the National Planning Policy Framework, Wiltshire Council has worked proactively to secure this development to improve the economic, social and environmental conditions of the area.

Subject to the following condition(s):

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with drawing numbers 10026(L)411A, 3114(P)001M received on 11th January 2013 and drawing numbers 10026(L)410D, 8008(I)243_B received on 5th September 2013

REASON: For the avoidance of doubt and in the interests of proper planning

- 3 The development hereby permitted shall be carried out in accordance with the noise acoustic report received by the Local Planning Authority on 2nd May 2013. Once the development has been completed but prior to occupation of the residential units hereby permitted a post noise construction assessment shall be carried out and the results, any required remedial works and a timetable for implementation of any such remedial works shall be submitted to and agreed in writing by the Local Planning Authority. Any necessary works shall be carried out in accordance with the agreed timetable.

REASON: To ensure that noise from the existing plant room does not impact upon the amenity of future residents having regard to Saved Policy C38 of the West Wiltshire District Plan 1st Alteration 2004.

Informative(s):

- 1 This permission shall be read in conjunction with a Supplemental Planning Agreement to the original Section 106 Agreement made under Section 106 of the Town and Country Planning Act, 1990 and dated ____

Appendices:	
Background Documents Used in the Preparation of this Report:	