

Planning Committee: 21 October 2020

Item Number: 7

Application No: [W 20 / 0966](#)

Registration Date: 29/06/20

Expiry Date: 27408/20

Town/Parish Council: Warwick

Case Officer: Andrew Tew
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45 Brook Street, Warwick, CV34 4BL

Erection of timber pergola to outdoor seating area with sliding canvas sun shade over. FOR Dough and Brew

This application is being presented to Members of the Planning Committee due to an objection from Warwick Town Council and the amount of public responses, both in support and objection.

Recommendation

Planning Permission is recommended to be REFUSED.

Details of the Development

Planning permission is sought for the erection of a timber pergola to an outdoor seating area with sliding canvas sun shade over.

The Site and its Location

The application relates to a restaurant on the ground floor of a mixed use building called Westgate House comprising office accommodation on the second and third floors. The site is situated on the north western side of Market Street in Warwick, within the town centre boundary.

The site is located within the Warwick Conservation Area and is in close proximity to listed buildings, including the Grade II listed Congregational Chapel and Wootton House opposite.

The application is sited on private land. There is street furniture provided by the owner in the location.

Planning History

W/15/1319 - Change of use from Use Class A1 (shop) to Use Class A3 (Restaurant & Cafe) and installation of extraction flue to rear of property

Relevant Policies

- National Planning Policy Framework

Warwick District Local Plan 2011-2029

- HE1 - Protection of Statutory Heritage Assets
- HE2 - Protection of Conservation Areas
- BE1 - Layout and Design
- BE3 - Amenity
- TR1 - Access and Choice (Warwick District Local Plan - 2011-2029)
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets

Summary of Representations

Warwick Town Council - Objection. In support of WDC's Conservation Officers response.

WDC Conservation - Objection. Out of keeping with the Conservation Area and street scene, effect on nearby listed buildings, poor quality construction.

WCC Highways - No objection

WCC Ecology - No objection

Public response. 124 responses in support and 16 objections received.

Responses in support can be summarised as:

- Entirely on private property
- Businesses need support during pandemic
- Enables social distancing
- Aesthetic improvement to area
- Good use of outdoor space
- Encourages visitors into town
- Improves unused/redundant corner of town
- Public access considered
- Looks great
- Proposed planting great
- Asset to Warwick
- Doesn't take up pavement space

Objections can be summarised as:

- No space for pedestrians and disabled people
- Constructed on public land
- Blocks seating provided by WDC

- Constructed within Conservation Area
- Effect on trees
- Fire hazard
- Use of outdoor lighting
- Visual intrusion
- Noise
- Materials used out of keeping with area
- Commentator wants to build pagoda on statue of Randolph Turpin

Assessment

Impact on the character and appearance of the surrounding Conservation Area and Listed Buildings

There is a statutory requirement through Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 that authorities should have special regard to the desirability of preserving or enhancing the character or appearance of any Conservation Area, as well as through Section 66 that authorities should have special regard to the desirability of preserving any Listed Building, its setting or any features of special architectural or historic interest that it possesses.

Policy BE1 (Layout and Design) of the Warwick District Local Plan seeks to ensure that the design and layout of development proposals is of a high standard in terms of design and retains the character of the area.

Policy HE1 (Designated Heritage Assets and their setting) states that where development would lead to less than substantial harm to the significance of a designated heritage asset, this harm will be weighed against the public benefits of the proposal, including securing its optimum viable use. This policy adds that in considering applications relating to listed buildings or conservation areas, the Council will require that proposals do not have a detrimental effect upon the integrity and character of the building or its setting or the conservation area. The structure does not present such a degree of public benefit to outweigh the harm caused to the setting of the conservation area and listed buildings.

Policy HE2 (Conservation Areas) states that *'it is important that development both within and outside a conservation area, including to unlisted buildings, should not adversely affect its setting by impacting on important views and groups of buildings within and beyond the boundary'*.

WDC Conservation have been consulted and comment that the design of the proposed pergola and the use of un-treated timbers in such a prominent location is not in-keeping with the character and appearance of the street scene or the wider conservation area. Additionally, the structure is flimsy in appearance, being constructed of thin, low quality timber. They expect any structure erected in the heart of historic Warwick to be of high quality materials and design. They also note concerns that the proposed plans and elevations do not align with what is being shown in the proposed visualisation (or indeed what has already been partially constructed on site). The application site lies in close proximity to listed buildings, including the Grade II listed Congregational Chapel and Wootton House opposite, and the works would therefore impact upon the setting of listed buildings.

Whilst the application is adjacent to a modern building, the impact on views of surrounding listed buildings within the Conservation Area has an undesirable effect and is out of keeping. The overall design of the structure is not of high quality, as required by Policy BE1, and detracts from the character of the area.

Taking the response of the Conservation Officer into consideration the application is in conflict with Policies BE1, HE1 and HE2.

Impact on Local Amenity

Policy BE3 of the Warwick District Local Plan states that new development will not be permitted that has an unacceptable adverse impact on the amenity of nearby uses and residents.

Public comments relating to noise are acknowledged. WDC Environmental Health have been consulted and raise no objection on noise grounds. They do note the proximity of residents to the application site on Brook Street and point to The Business and Planning Act 2020 which has recently been introduced to help restaurants and drinking premises maintain social distancing by granting temporary pavement licenses upon application to the local licensing authority. This provision allows businesses to place removable furniture on pavements outside their premises up until the 30th September 2021 without the need for planning permission.

To ensure consistency with the Business and Planning Act 2020, Environmental Health recommends that temporary planning permission is granted up until 30th September 2021 after which the applicant must either remove the structure, extend the time-limit of the temporary planning permission, or apply to permanently retain the structure providing that there have been no harmful impacts on local residents. They would also recommend a suitably worded planning condition that shall require the use of the outdoor seating area to cease at 22:30 on each night and that all furniture must be rendered unusable until 10:00am on the next working day. However, all of the above stipulated conditions are already in place and controlled by the Premises Licensing dated 27/03/2018. Additionally, the application is for a permanent planning permission and will be assessed on this basis.

It is of the opinion of the LPA that noise generated from a licensed premises within a town centre is to be expected by virtue of living in a town centre. The application site is restricted in its operating hours already to mitigate undue negative impact on public amenity and the granting of this application is not considered to exasperate that.

Considering the above, the application is considered to accord with Policy BE3.

Impact on Highway Safety

Policy TR1 of the Warwick District Local Plan (2011-2029) requires all development to provide safe, suitable and attractive access routes for all users that are not

detrimental to highway safety. WCC Highways have been consulted and raise no objections.

There have been multiple public comments that the development would impact on the ability of pedestrians and wheelchair users to use the pavement. However, during the site visit, it is evident that the development is sited on private land and the pavement is clear of any structure, tables or chairs. Whilst pedestrians may previously have accessed the area now being used, it has always been private property.

As such, the application accords with Policy TR1.

Ecology

WCC Ecology have been consulted and welcomes that the proposal retains existing trees as part of the proposed works. However, according to street photography there is lighting installed in a nearby tree (appearing to be an ash tree from street photography). WCC Ecology request a condition that this lighting be removed should permission be forthcoming, however, as this is not specific to this proposal or necessarily something that would require planning permission, it is not deemed appropriate to do so within the context of this application.

As such, the application is in accordance with Policy NE2.

Other Matters

There has been significant public support and objection to this application, with many of the comments received not being material planning considerations, however, it would be beneficial to refer to these matters briefly.

In support, multiple people have commented on the need to support local businesses in these unchartered times and the use of this outside area being beneficial to the town, providing an aesthetic improvement to the area and encouraging visitors into town.

Many have objected to street furniture in place at the site now being rendered unusable by the general public. To be clear, this street furniture was provided by the owner on private land. However, the applicant with the permission of the owner has offered the street furniture to the Council to be reused elsewhere, as a gesture of goodwill.

Summary/Conclusion

In the opinion of the Local Planning Authority, the development is visually harmful to the character and appearance of the street scene and fails to enhance or preserve the character of the wider Conservation Area. Those impacts have been carefully considered relative to the economic benefits that may be linked to the development, however on balance, the visual harm is considered to outweigh any such benefits. It is therefore considered that the application should be REFUSED.

Reason for Refusal

The application site is situated within a conservation area and within the setting of a number of listed buildings. Policy HE1 of the Warwick District Local Plan 2011-2029 states that, where development would lead to less than substantial harm to the significance of a designated heritage asset, this harm will be weighed against the public benefits of the proposal, including securing its optimum viable use.

The design of the pergola and the use of un-treated timbers in such a prominent location is not in keeping with the character and appearance of the street scene or the wider conservation area. It appears as an incongruous addition to this historic setting. Therefore it is considered that the proposals would harm the character and appearance of the conservation area and the setting of the nearby listed buildings. There are no public benefits sufficient to outweigh this harm.

The proposals are therefore contrary to the aforementioned policies.