

Planning Committee: 20 October 2020

Item Number: 8

Application No: W 20 / 1155

Registration Date: 21/07/20

Expiry Date: 15/09/20

Town/Parish Council: Kenilworth

Case Officer: Rebecca Compton
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Units 3 and 5a, Princes Drive, Kenilworth, CV8 2FD

Application for the variation of Conditions 6 (deliveries) and 7 (opening hours) of planning permission W15/0256 (Demolition of existing warehouse (Class B8) and replacement with storage yard, storage building, access vehicle parking and conversion of existing building to provide builders merchants (Sui Generis)) to extend opening hours and delivery times for a temporary period. FOR Buildbase Ltd

This application is being presented to Committee due to the number of objections and an objection from the Town Council having been received.

Recommendation

Planning Committee are recommended to GRANT planning permission, subject to the conditions listed in the report.

Details of the Development

The application seeks planning permission for the variation of condition 6 (delivery times) and 7 (opening hours) of application W/15/0256 to allow for extended opening hours and delivery times for a temporary period until 1st April 2021.

Only the impact of the above elements will be assessed as part of this application.

The agent has put forward a justification for the temporary extended opening hours and delivery hours are required on the basis that current social distancing guidelines restrict the number of customers that the site can accommodate at one time. The proposed temporary opening hours and delivery times will enable the site to support their customers and construction sites that are now working to extended hours.

The Site and its Location

The site comprises a builders merchants accessed off Princes Drive, Kenilworth which leads from Coventry Road. The site is located on the corner as the road bends and Princes Drive is not a through road. Residential properties fronting Coventry Road and facing the site are situated approximately 40 metres away from site at the nearest point.

Planning History

W/15/0256: Demolition of existing warehouse (Class B8) and replacement with storage yard, storage building, access vehicle parking and conversion of existing building to provide builders merchants (Sui Generis) - Granted

Relevant Policies

- National Planning Policy Framework
- **Warwick District Local Plan 2011-2029**
- BE3 - Amenity
- TR3 - Parking
- **Kenilworth Neighbourhood Plan (2017-2019)**
- KP13 - General Design Principles

Summary of Representations

Kenilworth Town Council: Object due to impact on neighbouring residents in terms of noise and disturbance.

WCC Landscape: Objection, whilst the number of dwellings has been reduced to two, their size and the inclusion of detached garages still takes up a large part of the site, to the detriment of garden land and existing vegetation. This is in contravention of policy H1 of the Local Plan as the development does not reinforce the established character of the street. Concern regarding the large number of trees and shrubs that will be removed and feel that the replacement planting proposals are still just a token effort. The landscape proposals should seek to retain the wooded character across the site and not merely be the addition of a few trees here and there.

Environmental Health: No objection subject to amendments of opening hours, delivery times and length of temporary period.

Public response: 6 letters of objection have been received raising concerns over impact on neighbours, in particular with regards to noise and disturbance.

Assessment

The previously approved permission is extant and since there is no requirement to re-assess the principle of development through a section 73 application, the main issues in the determination of this application are considered to be:

- Impact on the amenity of neighbouring properties

As part of the 2015 approval, due to the proximity of the site to nearby residential properties, it was considered necessary to restrict the hours of opening and delivery times to limit noise and disturbance to neighbouring residents. Conditions were attached restricting the hours of use and delivery times:

Condition 6: There shall be no deliveries (incoming or leaving) between the hours of 17:00 and 07:30 Monday to Friday or at any time on Saturdays, Sundays or Bank Holidays.

Condition 7: The opening hours of the premises shall be limited to: Monday to Friday: 07:30 – 17:00, Saturday 08:00-16:00. No opening on Sundays or Bank Holidays

Impact on the amenity of neighbouring properties

Warwick District Local Plan policy BE3 requires all development to have an acceptable impact on the amenity of nearby users or residents and to provide acceptable standards of amenity for future users or occupiers of the development. There is a responsibility for development not to cause undue disturbance or intrusion for nearby users in the form of loss of privacy, loss of daylight, or create visual intrusion.

A number of objections have been received raising concerns over noise and disturbance to neighbouring properties.

Environmental Health have been consulted and raised concerns over the earlier opening hours sought due to the close proximity of existing residential dwellings and the adverse noise impacts that will occur from heavy goods vehicles accessing and leaving the site during these unsociable hours. Environmental Health have suggested alternative times which has been agreed with the applicant.

The temporary variation of Conditions 6 and 7 are as follows:

6. *'There shall be no deliveries (incoming or leaving) between the hours of 18:30 and 07:30 Monday to Fridays, between 13:00 and 08:00 on Saturdays and at no time on Sundays and Bank Holidays for a temporary period ending on 1 April 2021, following which permitted opening hours shall revert to those specified in condition 6 of planning permission ref. W/15/0256.'*

7. *'The opening hours of the premises shall be limited to: between the hours of 07:30 and 18:30 Monday to Fridays; between 08:00 and 16:00 on Saturdays and no time on Sundays and Bank Holidays for a temporary period ending on 1 April 2021, following which permitted opening hours shall revert to those specified in condition 6 of planning permission ref. W/15/0256.'*

The ministerial statement and subsequent Business and Planning Act 2020 applies to construction site working hours as opposed to completed developments with restrictions on operating hours. Notwithstanding this, it is acknowledged that the premises in question has a tangible link to the goals of the ministerial statement and the need to ensure that new development continues during the current global pandemic. The proposal has been amended to omit the earlier opening hours and the temporary period has also been amended to the 1st April 2021 in line with the Government's decision to temporarily extend construction working hours till 1st April 2021.

The temporary opening and delivery hours have been amended to coincide with the temporary extension of construction hours period specified in the Business and Planning Act 2020, the temporary period of time being applied for also coincides with the date set by the Government when the temporary construction hours will cease. The amendments to the hours of opening and delivery times is considered to alleviate concerns regarding noise and disturbance to neighbouring residents and will ensure that the site limits activity during unsociable hours.

Other matters

Issuing any permission under Section 73 of the Act is tantamount to issuing a new permission for the entire development. As a consequence, any decision notice must replicate all previous conditions which are still relevant.

There are no other new material considerations since the original permission which would lead me to believe that the remaining conditions are no longer appropriate in my opinion.

Conclusion

Following amendments to the proposed temporary opening hours and delivery time and amendment to the temporary period that is being applied for, it is considered that the proposal would not have a harmful impact on the amenity of neighbouring residential properties for the temporary period until 1st April 2021.

Conditions

- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawing numbers 004B; 007H, 009A and 010B, and specification contained therein, submitted on 19 February 2015 and 12 May 2015.
REASON : For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.
- 3 The development hereby permitted shall not be commenced unless and 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.

REASON: To ensure that adequate provision is made for the generation of energy from renewable energy resources or to achieve carbon savings in accordance with the provisions of Policy CC2 in the Warwick District Local Plan 2011-2029.

- 4 Prior to the commencement of development hereby permitted, details of landscaping for the rear (south-east) boundary of the site showing means of enclosure, new planting and retained trees shall be submitted to and approved in writing by the Local Planning Authority. Any trees or shrubs removed without consent of the local planning authority or which die, become seriously damaged or diseased within a period of 5 years from the completion of the development, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority first gives written consent to any variation.

REASON: To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies BE1, BE3 and NE4 of the Warwick District Local Plan 2011-2029.

- 5 There shall be no deliveries (incoming or leaving) between the hours of 18:30 and 07:30 Monday to Fridays, between 13:00 and 08:00 on Saturdays and at no time on Sundays and Bank Holidays for a temporary period ending on 1 April 2021, following which permitted opening hours shall revert to those specified in condition 6 of planning permission ref. W/15/0256. **REASON:** In the interests of the amenities of the occupiers of nearby properties in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.

- 6 The opening hours of the premises shall be limited to: between the hours of 07:30 and 18:30 Monday to Fridays; between 08:00 and 16:00 on Saturdays and no time on Sundays and Bank Holidays for a temporary period ending on 1 April 2021, following which permitted opening hours shall revert to those specified in condition 6 of planning permission ref. W/15/0256. **REASON:** In the interests of the amenities of the occupiers of nearby properties in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.

- 7 The storage area identified on drawing number 007H shall not exceed 5 metres in height. **REASON:** To protect the visual amenities of the area in accordance with Policy BE3 in the Warwick District Local Plan 2011-2029.