

**Application No:** W 12 / 0759

**Town/Parish Council:** Leamington Spa

**Registration Date:** 22/06/12

**Case Officer:**

Jo Hogarth

**Expiry Date:** 17/08/12

01926 456534 jo.hogarth@warwickdc.gov.uk

**Amara, 7 Court Street, Leamington Spa, CV31 2BB**

Change of use from A4 to Nightclub (revised application following withdrawn application no. W12/0380 - revised opening hours) FOR Miss N Beejadhur  
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This application is being presented to Committee due to the number of objections and an objection from the Parish/Town Council having been received.

**RECOMMENDATION**

Planning Committee are recommended to grant planning permission subject to conditions.

**DETAILS OF THE DEVELOPMENT**

The proposal seeks to change the use from a public house to a nightclub (suitable use) with opening times as follows:

- Monday-Wednesday 18.00 to 03.00
- Thursday-Saturday 18.00 to 06.00
- Sunday 12.00 to 06.00
- Bank Holidays 18.00 to 04.00
- New Years Eve 18.00 to 06.00

**THE SITE AND ITS LOCATION**

The site relates to an established bar/public house (Class A4) within the town centre, outside the Conservation Area, located on the corner of Court Street and Cumming Street which leads into Althorpe Street. There are a mix of uses within the immediate area ranging from a salon, dental surgery and a hand car wash, along with other commercial premises. There is a public pay and display car park opposite the site on Court Street. The building has a licence to be open to sell alcohol and entertainment from 18.00 - 03.00 (Mon-Thurs) and 18.00 - 04.00 (Fri & Sat), 12.00 - 03.00 (Sun) and has a sex establishment licence for times between 23.00 - 03.00 (Mon - Thurs) and 23.00 - 04.00 (Fri & Sat). The premises, at the time of writing this report, do not therefore have an entertainment licence for the hours of opening which are the subject of this planning application.

**PLANNING HISTORY**

A previous application (ref: W/12/0380) for the same use was withdrawn as the applicant's wished to alter the opening hours applied for.

## **RELEVANT POLICIES**

- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP8 - Parking (Warwick District Local Plan 1996 - 2011)
- DP9 - Pollution Control (Warwick District Local Plan 1996 - 2011)
- DP14 - Crime Prevention (Warwick District Local Plan 1996 - 2011)
- TCP7 - Opportunity Sites in Old Town, Leamington Spa (Warwick District Local Plan 1996 - 2011)
- Vehicle Parking Standards (Supplementary Planning Document)
- National Planning Policy Framework

## **SUMMARY OF REPRESENTATIONS**

**Royal Leamington Spa Town Council:** Objection as the change of use could attract unruly clientele whose behaviour could impact on residential and other properties in the locality.

**Inland Waterways:** This area is not one which boaters regularly chose for overnight mooring. Noise, anti-social behaviour and drunken vandalism which occurs from nightclubs with excessive opening hours would ensure that this section of canal would be a no-stop overnight area. There is no reason why local residents should be subjected to these excessive hours.

**Community Safety Officer:** No crime and disorder objections to the change of planning use for the premises from pub to club.

**Environmental Health:** Recommend a condition relating to remedial works in accordance with the noise assessment and no noise complaints have been received since 2009 and the extension to opening hours have no bearing on the noise attenuation of the building itself.

**The Leamington Society:** Objection on grounds that the proposal is contrary to the NPPF and there has been local effort over recent years to stimulate regeneration of community and economy of South Leamington and planning decisions should buttress these efforts in conforming with overall policy. This will have a negative impact and deter family custom in the important evening economy and offers no increase in employment but will displace local community custom.

**Public response(s):** 44 letters have been received objecting on grounds that this use is out of character with the area, increase in vandalism, pollution, traffic, disturbance to nearby residents'; a nightclub would attract a younger crowd who could be intimidating to local residents; significant disruption as it would be open much later than a pub, vehicle engines; noise from people outside congregating - there is no smoking area; inappropriate to have sex industry/strip club where there are families nearby and it will attract soliciting and kerb crawling. It will adversely impact on the character of the area.

## **ASSESSMENT**

It is considered that the key issues relating to this proposal to be:

- Impact on the character of the area
- Crime prevention
- Parking
- Residential amenity and noise

#### Impact on the character of the area

The site is a town centre location within an area where regeneration proposals for a range of uses are supported under Policy TCP7. This policy was supplemented by Supplementary Planning Guidance which identified this building as suitable for retention as part of any future regeneration proposals. Whilst the leisure use is not one of the specific uses encouraged within the policy, national planning policy directs leisure uses to town centre locations, and the continued use of the building will ensure its upkeep and maintenance and thereby not allow it to detract from the character of the area or discourage other regeneration proposals. There are no external alterations to the building proposed, and the nature of the proposed use is not dissimilar to the former use in character. The area contains a variety of uses, and the introduction of this use in what is a mixed commercial area within the town centre would not result in significant unacceptable harm to the character or appearance of the area contrary to Policy DP1 of the Local Plan.

#### Crime prevention

No objection is raised by the Council's Community and Safety Officer on grounds of potential for crime and disorder and given that there is a Council owned CCTV camera opposite the site which is monitored and the area does have street lighting, it is considered that the proposal complies with Policy DP14 of the Local Plan.

#### Parking and Traffic

The parking standards would require five off street parking spaces for the former use as a public house, but the requirement for nightclubs should be assessed on an individual basis. In this instance, given that there is a public pay and display car park opposite the building which can accommodate vehicles during the hours of use, along with other public parking spaces within the town centre, it is not considered the proposal would be contrary to Policy DP8 in the Local Plan. The proposed use is also not considered likely to generate significantly greater traffic than the former use, and these can be accommodated within the highway network in accordance with Policy DP6 of the Local Plan.

#### Residential Amenity and Noise

As part of the submission, a noise impact assessment was submitted and Environmental Health have no objection subject to a condition to be attached to any approval. Furthermore, the nearest residential properties are some distance from the building along Clemens Street and High Street, and therefore the use is not considered likely to have an unacceptable adverse impact on their amenity through noise or disturbance. On this basis, it is considered that the scheme is acceptable and meets the objectives of Policies DP2 and DP9 in the Local Plan.

## Other matters

With regard to neighbour objections on grounds that the premises benefit from a sex establishment licence, the moral issues around the sex industry are not material planning considerations.

## **CONCLUSION/SUMMARY OF DECISION**

In the opinion of the Head of Development Services, the development does not adversely impact on the character and appearance of the area. The proposal is therefore considered to comply with the policies listed.

## **CONDITIONS**

- 1 The development hereby permitted must be begun not later than the expiration of three years from the date of this permission. **REASON :** To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
  
- 2 Prior to the commencement of the use of the premises as a nightclub, the remedial works shall be undertaken to the north-facing roof of the main nightclub area, in line with the recommendations in paragraph 7.1 of the applicant's Noise Impact Assessment submitted on 22 June 2012, in particular that 1 x layer of 19mm Gyproc plank is fitted between the rafters, cut to the width of the rafters and fully sealed at the junctions. **REASON:** To ensure that the overall insulation performance of that roof structure to 12dB and to satisfy the requirements of Policy DP9 in the Warwick District Local Plan 1996-2011.
  
- 3 The use of the premises for the purposes hereby permitted shall be restricted to the following hours:
  - Monday-Wednesday 18.00 to 03.00
  - Thursday-Saturday 18.00 to 06.00
  - Sunday 12.00 to 06.00
  - Bank Holidays 18.00 to 04.00
  - New Years Eve 18.00 to 06.00

**REASON:** To protect the amenities of surrounding properties, in accordance with Policy DP2 of the Warwick District Local Plan 1996-2011.

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