

Planning Committee: 15 August 2017

Item Number: 11

Application No: [W 17 / 0953](#)

Town/Parish Council: Cubbington
Case Officer: Lucy Hammond

Registration Date: 19/05/17

Expiry Date: 14/07/17

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52 Queen Street, Cubbington, Leamington Spa, CV32 7NA

Proposed change of use from shop to single 2-bed dwelling FOR Mr Graham Soden

This application is being presented to Committee as the Parish Council supports the application and it is recommended for refusal.

RECOMMENDATION

Planning Committee are recommended to refuse planning permission.

DETAILS OF THE DEVELOPMENT

The proposal seeks change of use of the existing ground floor A1 retail unit to a two bedroom dwelling. The proposal also includes some fenestration alterations and insertion of new windows and doors to facilitate the change of use.

THE SITE AND ITS LOCATION

The application relates to a two and single storey property, positioned to the south of Queen Street. The property is adjoined to an existing residential dwelling and brewery to the rear of the site and forms part of the Cubbington Local Shopping Centre and Conservation Area.

PLANNING HISTORY

Relevant planning history

W/16/1547 - Proposed change of use from shop to two bedroom dwelling - Refused 09.11.2016

RELEVANT POLICIES

- National Planning Policy Framework

The Current Local Plan

- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP3 - Natural and Historic Environment and Landscape (Warwick District Local Plan 1996 - 2011)
- DP12 - Energy Efficiency (Warwick District Local Plan 1996 - 2011)

- DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)
- SC13 - Open Space and Recreation Improvements (Warwick District Local Plan 1996 - 2011)
- UAP4 - Protecting Local Shopping Centres (Warwick District Local Plan 1996 - 2011)
- DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)
- DAP9 - Unlisted Buildings in Conservation Areas (Warwick District Local Plan 1996 - 2011)

The Emerging Local Plan

- BE1 - Layout and Design (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- BE3 - Amenity (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- CC2 - Planning for Renewable Energy and Low Carbon Generation (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- HS4 - Improvements to Open Space, Sport and Recreation Facilities (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TC17 - Local Shopping Facilities (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)

Guidance Documents

- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Open Space (Supplementary Planning Document - June 2009)

SUMMARY OF REPRESENTATIONS

Cubbington Parish Council: Support for the following reasons:-

- would prefer to see the property occupied as opposed to standing empty
- occupying the property as a dwelling would improve the street scene
- there would be less opportunity for vandalism or anti-social behaviour

WCC Highways: No objection and no conditions recommended

WCC Ecology: No objection; advisory notes are recommended

Open Space team: Should a contribution be justified (if the Parish Council are able to identify any development shortfalls) then no objection is raised and an appropriate financial contribution is recommended.

Public Response: One letter received raising an objection on the following grounds:-

- there is already insufficient parking provided for residents of Queen Street and customers of the local shops
 - this leads to frequent parking on double yellow lines which then causes an obstruction to access drives to other residential properties
- use of the premises as a dwelling would further exacerbate the problem

ASSESSMENT

The main issues relevant to the consideration of this application are as follows:

- Principle of the change of use
- The impact on the character and appearance of the area
- The impact on landscape and heritage assets
- The impact on living conditions of nearby dwellings
- Car parking and highway safety
- Sustainability
- Waste storage
- Ecological impact
- Open space
- Health and Wellbeing

Principle of the change of use

The application site falls within a local shopping centre. Saved Local Plan policy UAP4 seeks to protect local shopping centres, stating that changes of use from general shops to other A-class uses will not be permitted in such an area unless:

- a) The unit has been vacant for a period of at least 1 year or evidence can be provided that the unit has been actively marketed for an A1 use for a period of at least 9 months; or
- b) The proposed use can demonstrate that it will significantly increase pedestrian footfall in the centre and will introduce a new use into the centre which meets a local need; and
- c) Allowing the proposed change of use will maintain the predominance of A1 uses in the centre.

Changes of use from A-class uses to all other uses will not be permitted unless the proposal is for a community service or facility which can be demonstrated to meet a particular local need and which can be satisfactorily controlled by planning condition.

Emerging Local Plan policy TC17 carries forward all of the same principles as set out in the saved Local Plan and therefore does not alter the way in which the principle of development should be considered.

Following the earlier refusal of a similar application (November 2016) EHB has marketed the property between the period of November 2016 and April 2017, stating that in that time very little interest was expressed in the premises and any interest which was shown by prospective callers was subsequently withdrawn when they realised the site was in Cubbington and not the main town of Leamington Spa. EHB therefore conclude that in their opinion, the site is no longer viable for commercial occupation. The applicant has produced additional supporting information since EHB's letter of April 2017 advising that with the recent improvements to Compton's Garage and the impending opening of the new mini supermarket near the Rugby Tavern, another retail unit in Cubbington's local shopping centre has also closed which they feel further supports their case.

Arguably, it could be said that following the previous refusal of permission the applicant has demonstrated there is no viable market for a retail unit in this location any longer. However, this does not justify the premises changing its use

to a dwelling which is not considered to represent a community service or facility and therefore fails to accord with the necessary provisions of the relevant policies of the Development Plan.

Accordingly, and despite the attempt to market the premises since November 2016, the proposed development, in particular the change of use to a dwelling, is not considered to be acceptable in principle.

The Parish Council has supported the proposal as they wish to see the building brought back into use and feel that a dwelling here would improve the street scene and general quality/amenity of the area. However, there is nothing to prevent the building being proposed for an alternative community service or facility that can be demonstrated to meet a particular local need, as per the requirements of the relevant policies. No evidence has been submitted to demonstrate that such alternative uses have been considered or explored and therefore no justification as to why a dwelling is the only viable and realistic option for this building.

For these reasons, the development would be contrary to adopted Local Plan policy UAP4 and emerging Local Plan policy TC17 and therefore not acceptable in principle.

The impact on the character and appearance of the area

Saved Local Plan policy DP1 encourages the importance of good design, requiring all development to respect surrounding buildings in terms of scale, height, form and massing. The Local Plan calls for development to be constructed using the appropriate materials and seeks to ensure that the appearance of the development and its relationship with the surrounding built and natural environment does not detrimentally impact the character of the local area. This is carried forward in the emerging Local Plan policy which, at BE1, requires new development to positively contribute to the character and quality of the environment through good layout and design.

The change of use of the existing retail unit to a dwelling would require some fenestration alterations, principally, the installation of additional doors and windows to the current configuration. Providing these were constructed from matching materials to those of the existing dwelling which can be secured by condition, it is not considered that this would have a harmful impact on the street scene.

The development is therefore considered to be in accordance with saved Local Plan policy DP1 and emerging policy BE1.

The impact on landscape and heritage assets

Considerable importance and weight should be given to the duties set out in the Planning (Listed Buildings and Conservation Areas) Act 1990, when making decisions that affect listed buildings and conservation areas respectively. These duties affect the weight to be given to the factors involved.

Conservation Areas

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, "In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

Furthermore, saved Local Plan policy DAP8 requires development to preserve or enhance the special architectural and historic interest and appearance of Conservation Areas while emerging Local Plan policy HE2 requires that new development within the Conservation Area should make a positive contribution to the local character and distinctiveness of the Conservation Area. The NPPF generally requires development proposals to have regard to the significance of a designated heritage asset and its conservation.

The proposed change of use would not significantly impact on the Conservation Area. The proposed windows and doors can be conditioned to be constructed from matching materials to those of the existing dwelling which would ensure that the most appropriate materials are used and similarly all external joinery should be in painted timber. Overall, the proposal is not considered to cause harm to the Conservation Area.

The proposal is therefore considered to comply with saved Local Plan policies DAP8, DAP9 and emerging Local Plan policy HE2, as well as the NPPF.

The impact on living conditions of nearby dwellings

Saved Local Plan policy DP2 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. This is carried forward in emerging Local Plan policy BE3. 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.

The proposed change of use would not have a detrimental impact on the living conditions of the occupiers of neighbouring properties as there will be no extensions to the existing property or overlooking caused.

The proposal is therefore considered to comply with saved Local Plan policy DP2 and emerging policy BE3.

Car parking and highway safety

WCC Highways previously commented on the application and have stated this time that their original comments still apply. They raised no objection to the proposed change of use, stating that although it appears no parking is provided for the proposed dwelling, no parking was provided for the retail unit either. As a result, vehicles will have to park on the public highway and there are several existing properties in close proximity to the site which do not have off street parking. WCC Highways conclude that as there have been no accidents reported within the last 5 years, there would be no highway safety concerns.

It is noted that with this application the applicant's agent has advised that two parking spaces would be provided with the dwelling and these are shown on the submitted location plan of the site. However, since the Highways Authority raised

no objection to the proposal when no parking was proposed it is not considered there would be any detriment to highway safety now that two spaces are proposed with the dwelling.

It is therefore considered that the development remains acceptable in this regard and therefore accords with saved Local Plan policies DP6 and DP8 and emerging policies TR1 and TR4.

Sustainability

As the proposed change of use would not significantly increase the energy demands of the unit, it is not considered appropriate to require sustainable energy provision.

Waste storage

Contract Services have advised there would be a requirement for storage space for 2 x wheelie bins and recycling bags and boxes for the proposed residential dwelling. There is ample space to the rear of the property to accommodate this requirement.

Ecological impact

WCC Ecology have assessed the application and recommend that bat and nesting bird notes are attached to any approval granted.

Open space

The Open Space team have suggested that a contribution of £1,684 would be an appropriate contribution to request from the applicant in line with the Open Space SPD. However, they recommend that the Parish Council should identify and justify any development shortfalls and therefore, what open space improvements can be made. Cubbington Parish Council previously stated that improvements to Austen Court are still required and requested that the contribution be put towards this project.

Paragraph 31 of the NPPF provides that contributions should not be sought from developments of 10-units or less which is a material consideration and carries significant weight. As there has been no *detailed* information given by the Open Space team or Parish Council as to what scheme the contribution could be put towards, it is not considered reasonable to request this sum from the application. Departure from the NPPF should only be considered if exceptional circumstances are present and it is considered that the current circumstances would not represent justification to depart from policy contained within the NPPF. It would therefore not be reasonable to impose a condition for the requirement of open space contributions in accordance with the NPPF.

Health and Wellbeing

There are no health and wellbeing issues raised.

CONCLUSION

In conclusion, the proposed change of use would not adversely affect the character and appearance of the area, the special qualities, character and appearance of the conservation area and would not have a detrimental impact on local residents. However, the principle of development is contrary to the relevant provisions of the Development Plan and emerging Local Plan and notwithstanding the information that has been submitted regarding the loss of the shop, the proposed change of use to a dwelling does not represent a community facility or service nor is there any justification as to what local need this proposal would satisfy. For these reasons the development would therefore be contrary to saved Local Plan policy UAP4 and emerging Local Plan policy TC17 as it would not replace the loss of the shop with an alternative community service or facility.

- 1 Saved policy UAP4 of the Warwick District Local Plan 1996-2011 and emerging policy TC17 of the New Warwick District Local Plan 2011-2029 both seek to protect local shopping centres, stating that changes of use from A-class uses to all other uses will not be permitted unless the proposal is for a community service or facility which can be demonstrated to meet a particular local need and which can be satisfactorily controlled by a planning condition.

The proposal seeks to change the existing retail unit (use class A1) to a residential dwelling (use class C3). Notwithstanding the information that has been submitted regarding the loss of the shop, the proposed change of use to a dwelling does not represent a community facility or service nor is there any justification as to what local need this proposal would satisfy. The loss of the shop and its change of use to a dwelling is therefore not considered to be acceptable in principle.

For these reasons the Local Planning Authority considers the development is contrary to saved policy UAP4 of the Warwick District Local Plan 1996-2011 and emerging policy TC17 of the New Warwick District Local Plan 2011-2029.
