

**Application No:** [W 19 / 0818](#)

**Town/Parish Council:** Warwick

**Case Officer:** Emma Booker

01926 456521 [Emma.Booker@warwickdc.gov.uk](mailto:Emma.Booker@warwickdc.gov.uk)

**Registration Date:** 17/05/19

**Expiry Date:** 12/07/19

**66 Market Place, Warwick, CV34 4SD**

Variation of Condition 3 of planning permission ref: W/17/1033 to extend previously approved opening hours from 08:00 to 23:00 on any day to 09:00 to 23:30 Sunday to Wednesday, 09:00 to 24:00 Thursdays and 09:00 to 01:00 Fridays and Saturdays FOR The Table Ltd

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This application is being presented to Planning Committee due to the number of support responses received from the public and it is recommended for refusal. The application was presented to Members at the previous Planning Committee meeting on 9 October but was deferred to the enable the Environmental Health Officer (EHO) to attend.

**RECOMMENDATION**

It is recommended that Members refuse planning permission for the reason set out at the end of this report.

**DETAILS OF THE DEVELOPMENT**

The applicant seeks to vary Condition 3 of planning permission ref: W/17/1033 ("Change of use from Retail (Class A1) to a mixed use of Retail (Class A1), Restaurant and Cafe (Class A3), Drinking Establishment (Class A4) and the sale of food and drink for consumption on or off the premises"). Condition 3 limits the hours that customers are allowed on the premises to between 0800 and 2300 on any day. The reason cited for Condition 3 is "The premises are closely adjoined by residential properties and the local planning authority considers it necessary to strictly control the nature and intensity of use of the premises in the interests of the amenities of the area in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011."

The opening times proposed are:

- 09:00 to 23:30 Sunday to Wednesday
- 09:00 to 24:00 Thursdays
- 09:00 to 01:00 Fridays and Saturdays

**THE SITE AND ITS LOCATION**

The application site is a Grade II Listed Building situated within Warwick Town Centre and the Warwick Conservation Area.

## **PLANNING HISTORY**

W/17/1033 - Change of use from Retail (Class A1) to a mixed use of Retail (Class A1), Restaurant and Cafe (Class A3), Drinking Establishment (Class A4) and the sale of food and drink for consumption on or off the premises. - Granted 20.08.2017.

W/16/0330 - Change of use from A1 retail to mixed use A1 retail and A3 restaurant (Sui Generis) – Withdrawn 28.04.2016

W/15/1496 - Change of Use from A1 Retail to a Mixed Use of A1 Retail and A3 Café – Withdrawn 13.11.2015

## **RELEVANT POLICIES**

- National Planning Policy Framework
- The Current Local Plan
- BE3 - Amenity (Warwick District Local Plan 2011-2029)

## **SUMMARY OF REPRESENTATIONS**

**Warwick Town Council** - Objection. Residents' objections raise concern and current licensing needs to be reviewed.

**Environmental Health** - Objection.

- Environmental Health received reports from local residents of unacceptable noise, disturbance and antisocial behaviour late into the night.
- When investigating the complaints, Environmental Health Officers observed that the premises were open until 1am, well beyond the 11.30 closing time stipulated in condition 3 of planning permission ref: W/17/1033. Antisocial behaviour by the establishment's customers was also observed.
- The bar has provided door staff to attempt to manage the customers outside the door, but this has failed to alleviate disturbance to an acceptable level.
- The planning permission granted in 2017 envisaged a mixed use with eating and drinking until 11.30pm. Collective observations confirm that it has become a bar. The premises' current opening times (in breach of Condition 3) attracts antisocial behaviour, impacting on the well-being of close neighbours. We have no confidence that the applicant can manage customers to be unobtrusive.
- The way to remove the noise problem from the street drinkers / smokers associated with this bar late at night is to enforce the existing planning condition not to accommodate it by removing or weakening the condition.

**CCTV** - No objection.

**Warwickshire Police, Designing Out Crime Officer** - No objection.

**Public Response** –

19 separate responses of objection from 10 addresses have been received on the following grounds:

- Residents raise concerns over the level of noise and antisocial behaviour generated from the bar late into the night.
- The opening of the Iron Works has changed the character of the area. What was a brilliant place to live has become stressful and noisy.
- Neighbours do not feel safe parking our cars at Market Place due to antisocial behaviour outside the bar.
- Neighbours are unable to tolerate the bar. Most of the support comments are coming from those who do not live close to the pub.
- Neighbours understand that some noise is part and parcel of living in the town centre, but the issue now is that the bar is disturbing people.
- Despite the efforts from the owner to enforce rules to limit noise and disturbance, the situation has not improved. The staff do not follow the rules.
- The bar is now beginning to affect resident's health due to lack of sleep.
- It has become intimidating to walk past the bar due to drunken people outside. The street is dirty from vomit, alcohol, urine, cigarette ash and butt ends etc. associated with the bar.
- Drinking places belong in Market Square, where the businesses manage their customers better.
- It is almost certainly the case that the future of the area designated for retail use will depend upon the encouragement of residents to live in those areas. Therefore, everything possible should be done to encourage residencies, rather than the reverse.
- Warwick Relief in Need Charity raise concerns that demand for their rented accommodation will likely reduce due to the negative impacts of the bar on the resident's quality of life.
- The increase in taxis passing by the venue looking for business, slowing down and speeding off and running engines has added to the late night noise in the street which used to be minimum.
- The venue applied for a food venue/cafe licence and it has never served food or made any visible attempt to.
- Nearby businesses have been negatively affected by the customer's antisocial behaviour.

14 separate responses of support have been received from 12 addresses on the following grounds:

- The bar makes a positive contribution to the town by providing a late night place for drinking and socialising. The bar has brought diversity to the town. In order to thrive as a town, it is important to have a nightlife.
- Some neighbours consider the noise and disturbance from the premises to be acceptable.
- The bar makes Warwick Town Centre better as it is different to the other bars.
- Restrict the opening hours would make customers travel into Leamington for a later evening drink.
- The IronWorks is a local asset, generating revenue and good-will.

Allowing the premises to remain open for longer will bring it in line with several other licensed premises around the Market Square such as the Rose and Crown, The Globe, The Tilted Wig - all of which are open beyond 11pm on Saturdays. Noise can and should be addressed through positive engagement with Ironworks and, whilst this is a serious issue and should be dealt with, it does not provide

sufficient grounds not to grant an extension to the opening hours of the premises.

## **ASSESSMENT**

It is considered that the key issue to be assessed in the determination of this application is the impact of the increased opening hours on the amenity of the occupiers of nearby properties.

### 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.

In recent months the premises has been operating in breach of Condition 3 (restricting opening hours from 0800 to 2300 on all days), remaining open until late into the night. Environmental Health have received complaints from neighbours and subsequently carried out an investigation. EHOs have confirmed that the neighbours' complaints are genuine and have submitted a strong objection to the proposed variation of Condition 3 to extend the business's opening hours. The Environmental Health Officer considers that an extension to the opening hours which would enable the business to operate later into the night, would cause an unacceptable level of harm to the amenity of the neighbours by virtue of increased noise, disturbance and antisocial behaviour. Environmental Health and neighbours acknowledge that efforts have been made to reduce the noise generated by employing a doorman, but it is considered that this has failed to curtail disturbance to an acceptable level. Consequently, Environmental Health Officers have no confidence that the applicant can manage customers to be unobtrusive. It is therefore considered that the way to remove the noise problem from the street drinkers/smokers associated with this bar late at night is to enforce the existing planning condition not to accommodate it by removing or weakening the condition.

Warwick Town Council and residents of 10 nearby addresses have submitted objections to the application. Neighbours consider the location of the premises to be inappropriate for a mixed use business on the basis that there are many residential properties in close proximity to the site whom are subject a level of disturbance beyond what is reasonably expected from living within a town centre location. A number of local residents have expressed that the character of the area has been changed and the street now feels less safe at night due to customers regularly drinking out on the street. Increased demand for taxis has also increased the noise from traffic late at night. Residents do not consider it safe to park their vehicles outside the premises due to customers' regular antisocial behaviour. It is also considered that the business's operations will discourage residents from moving into the area, having a direct impact on the future of the area designated for residential use.

It is acknowledged that there are other Pubs in Warwick Town which have licences for later opening times:

- The Globe on Theatre Street is open Monday - Wednesday 08:00 - 23:00; Thursday - Saturday 08:00 - 00:00, Sundays 08:00 - 23:30 and Sundays

prior to Bank Holidays, Christmas Eve, Halloween and Bonfire Night 08:00 - 01:00.

- Thomas Lloyd on Market Place is open Sunday - Thursday 09:00 - 00:30, Friday - Saturday 09:00 - 01:00 and Christmas Eve and Boxing Day until 02:00.
- The Tilted Wig on Theatre Street is open Sunday - Thursday 10:00 - 00:00, Friday - Saturday 10:00 - 01:00, Christmas Eve and Boxing Day an additional hour into the morning; a further hour into the morning on every Friday, Saturday, Sunday and Monday for each Bank Holiday (including Friday for Easter) and on New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.
- The Rose and Crown on Market Place is open Sunday - Thursday 09:00 - 00:00 (no sales after 23:00) and Friday - Saturday 09:00 - 01:00 (no sales after 23:00).

However, the EHO has stated that these other Pubs are not located in the immediate vicinity of the application site and therefore a direct comparison would not be appropriate. In this instance, the EHO has observed that Market Place is quiet after 23:00 and has had the benefit of witnessing first-hand the applicant's premises operating at the hours that are being sought by the application. Environmental Health have also received complaints from local residents about the premises and have witnessed first-hand the noise impacts resulting from patrons of the application premises in the street at the late hours. The other premises mentioned benefit from historic permissions and established uses, are in relatively busier locations and have fewer residential properties in close proximity.

The Town Council considers that the concerns of the neighbours need to be addressed and the licensing of the premises needs to be reviewed.

Warwickshire Police and WDC CCTV have raised no objection to the scheme.

14 support comments from 12 local addresses have also been received. Local residents consider The Iron Works to have had a positive impact on the local area, providing a unique late night place for drinking and socialising. It is considered that bar has brought diversity to the town and in order to thrive, it is important to have a nightlife. A number of local residents consider the level of noise and disturbance from the business to be acceptable. One supporter of the scheme suggests that positive engagement with the business is a better way to deal with the noise issue, they consider that the issue of noise does not provide sufficient grounds not to grant an extension to the opening hours of the premises.

Taking all of the comments into consideration, it is considered that an extension to the opening hours of The Iron Works would cause unacceptable harm to the amenity of the neighbours. Market Place accommodates a high number of residential properties, many in very close proximity to the site. Given that The Iron Works is located within a mixed use retail and residential area; it is considered an unsuitable space to accommodate a drinking establishment that is open late into the night beyond 11pm. It was acknowledged within the assessment of planning application ref: W/17/1033 that use of the premises as a mixed A1, A3 and A4 use could potentially impact on the amenity of the

neighbours. Therefore, the imposition of Condition 3 to prevent closing time beyond 11pm was considered necessary in order to protect neighbour amenity. To vary this condition to extend the opening hours would result in an unacceptable form of development which would have a negative impact on the amenity of the neighbours by virtue of increased noise and disturbance for prolonged period of time. The proposal therefore fails to satisfy the criteria of Local Plan Policy BE3 and is recommended for refusal.

### **REFUSAL REASONS**

- 1 Warwick District Local Plan Policy BE3 requires all development to have an acceptable impact on the amenity of nearby users or residents.

In the opinion of the Local Planning Authority it is considered that the proposed extension to the opening hours would result in material harm to the living conditions of neighbouring residents by reason of noise, disturbance and anti-social behaviour derived from customers leaving and congregating outside the premises late into the night.

The permitted hours, 0800 - 2300, are considered appropriate for the location of the site in a mixed commercial and residential part of the town centre in order to strike an acceptable balance between the commercial and residential role of this part of the town centre. To permit the business to open later into the night, on all days of the week, would result in an unacceptable form of development which would fail to comply with Local Plan Policy BE3.

The proposal is thereby considered to be unneighbourly and contrary to the aforementioned policy.

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