

Planning Committee: 08 November 2016

Item Number: 8

Application No: [W 16 / 1547](#)

Town/Parish Council: Cubbington
Case Officer: Helena Obremski
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Registration Date: 28/09/16
Expiry Date: 23/11/16

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

Proposed change of use from shop to two bedroom dwelling. FOR Mr Graham Soden

This application is being presented to Committee due to support from the Parish Council and a letter of support from Cllr Redford having been received.

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 the installation of doors and windows 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

W/79/0208 - application granted for the erection of a single storey rear extension to bakery.

W/85/0911 - application granted for the erection of a store.

W/86/0521 - application granted for the erection of 2 refrigerators.

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: Supports proposal. The Council would usually object to a loss of retail premises, however, the history of these premises means the Council concludes that it would be unlikely to be able to support a retail use. The Council would prefer the unit is converted into a useful purpose, rather than remain empty. The Council requests that open space contributions are put towards the improvement of Austen Court.

Cllr Redford: Supports the proposal as the premises have been empty for approximately 2 years and no retailer has come forward during this time to lease the premises. Previous businesses leasing the shop have failed. Concern that the property will become rundown and dilapidated without use. Notes that the

property positioned opposite to the application site was converted from a shop into two dwellings which enhanced the wider area.

WCC Highways: No objection, no parking has been provided, however, 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. As there have been no accidents reported within the last 5 years, there would be no highway safety concerns.

WCC Ecology: No objection, subject to the inclusion of bat and nesting bird notes.

Contract Services: No objection, storage space is required for 2 x wheelie bins and recycling bags and boxes.

Open Space: No objection, recommends that the Parish Council identifies what open space improvements can be made and that an appropriate sum for a two bedroom dwelling would be £1,256 in line with the Open Space SPD.

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
- Health and Community Protection
- Open space
- Health and Wellbeing

Principle of the change of use

The application site falls within a local shopping centre. Adopted Local Plan policy UAP4 and emerging Local Plan policy TC17 seek to protect local shopping centres; changes of use from Use Class A 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). A dwellinghouse is not considered to represent a community service or facility and therefore the development is not considered to be acceptable in principle.

The Parish Council and Cllr Redford have supported the proposal as they have concerns that the property is unlikely to attract further retail interest and the history of these premises leads the Parish Council to conclude that it would be unlikely to be able to support a retail use. Cllr Redford states that the site has been vacant for two years and that the property will become rundown and dilapidated without use. They note that the property positioned opposite to the application site was converted from a shop into two dwellings which enhanced the wider area.

The agent has provided a written document to show that the owners of the site have privately marketed the unit, via advertising the unit locally in shop windows, the village notice board and by word of mouth without any success since July 2014. However, no evidence has been presented to show that the unit has been actively, formally marketed through an estate agent without success which would have a much wider reach than locally advertising the property. There is also no evidence to show that all other options have been pursued to find a new user. The written document provided by the agent states that the owners were unable to find new tenants, but there is no evidence to support this. This property has been used as a local shop for many years, and it is considered that the loss of this A1 floor space in this location would be detrimental to the area. It is considered that this is a suitable location for a local shop as it is situated within close proximity to other facilities and shops, and to lose this would represent a further erosion of local facilities. The fact that the last business was not viable in this location is not justification to permanently lose this retail floor space in the area.

The development would be contrary to adopted Local Plan policy UAP4 and emerging Local Plan policy TC17 and the evidence presented in favour of the change of use would not outweigh the harm caused by the loss of the retail unit.

The impact on the character and appearance of the area

The National Planning Policy Framework (NPPF) places significant weight on ensuring good design which is a key aspect of sustainable development and should positively contribute towards making places better for people. The NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving character, the quality of an area and the way it functions. Furthermore, Warwick District Council's Local Plan 1996 - 2011 policy DP1 reinforces the importance of good design stipulated by the NPPF as it requires 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.

The change of use of the existing retail unit to a dwellinghouse would also require the installation of additional doors and windows. So long as 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 the NPPF and adopted Local Plan policy DP1.

The impact on landscape and heritage assets

Warwick District current Local Plan policy DAP8 requires development to preserve or enhance the special architectural and historic interest and appearance of Conservation Areas. It goes on to state that development should respect the setting of Conservation Areas and should not impact on important views or groups of buildings from inside and outside of the boundary. 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. Current Local Plan policy DAP9 relating to unlisted buildings in Conservation Areas reiterates this by stipulating that alterations and extensions should be refused where they adversely affect the character, appearance or setting of a Conservation Area.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty when exercising planning functions to pay special attention to the desirability of preserving or enhancing the character of a conservation area.

Paragraph 132 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 134 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage assets, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

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. The proposal is not considered to cause harm to the Conservation Area.

The Conservation Officer has no objection to the proposal, and recommends that permitted development rights are removed to ensure that the original character of the property is retained. He requests that all external joinery should be in painted timber, which can be secured by condition.

The proposal is therefore considered to comply with adopted Local Plan policy DAP8, DAP9 and emerging Local Plan policy HE2.

The impact on living conditions of nearby dwellings

Warwick District 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. 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 adopted Local Plan policy DP2.

Car parking and highway safety

WCC Highways have commented on the application and have no objection to the proposed change of use. They state that no parking has been provided for the proposed dwelling, however, no parking was provided for the retail unit either. They state that 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.

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 been consulted and require 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.

Health and Community Protection

Environmental Health comments are expected prior to the planning committee meeting and will be added.

Open space

The Open Space team have suggested that a contribution of £1,256 would be an appropriate contribution to request from the applicant in line with the Open Space SPD. However, they recommend that the Parish Council identifies what open space improvements can be made. Cubbington Parish Council state that

improvements to Austen Court are still required and request 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 and will not have a detrimental impact on local residents. However, when balanced against the potential loss of this retail use, it is considered that there is no justification for the change of use. The development would be contrary to adopted Local Plan policy UAP4 and emerging Local Plan policy TC17 as it would not replace the existing unit with a community service or facility. The evidence presented by the agent in support of the change of use would not outweigh the harm caused by the loss of the retail unit to this local shopping centre which would have a long term impact on the area.

REFUSAL REASONS

- 1 Adopted Local Plan policy UAP4 emerging Local Plan TC17 seek to protect local shopping centres and changes of use from Use Class A 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). A dwellinghouse is not considered to represent a community service or facility and therefore the development is not considered to be acceptable in principle.

The evidence presented by the agent in support of the change of use would not outweigh the harm caused by the loss of the retail unit to this local shopping centre which would have a long term impact on the area.