

**Application No:** [W 17 / 0526](#)

**Town/Parish Council:** Warwick  
**Case Officer:** Lucy Hammond  
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**Registration Date:** 26/04/17  
**Expiry Date:** 21/06/17

**9 Old Square, Warwick, CV34 4RA**

Proposed change of use of ground floor from A1 (retail) to A3 (restaurant) for use as lounge area in association with adjacent premises (No.7 Old Square) together with proposed change of use of upper floors from office to create 1no. 2 bed flat FOR Rayhill Property Ltd

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This application is being presented to Committee due to the number of objections received.

**RECOMMENDATION**

That planning permission be granted subject to the conditions and notes listed at the end of this report.

**DETAILS OF THE DEVELOPMENT**

Planning permission is sought to change the use of the vacant unit (No.9) from A1 retail into A3 restaurant which would create an extension to the adjacent unit (No.7). Planning permission is also sought, retrospectively, for the change of use of the upper floors above the empty shop into one single flat.

To facilitate the proposals at ground floor, a new internal opening is proposed to create a link and connect the two units. This specific element of the proposals does not require planning permission and therefore does not form part of this particular application. It is subject to a separate application for listed building consent which is on this same agenda for consideration by Members.

**THE SITE AND ITS LOCATION**

No.9 is a Grade II listed building located in the cafe quarter of Warwick's Conservation Area. It is also located within one of the town's Retail Areas. The building is a separate historic structure to No.7, though evidently forms part of the group to which No.7 and other adjoining units belong. It is a three storey building, with a vacant shop unit occupying the ground floor. The two floors above, which were historically used as offices, are now in use as a single residential flat, for which retrospective permission is sought as part of this application.

## **PLANNING HISTORY**

W/17/0752/LB - Repairs and repainting to front of building, including walls, windows and doors - Approved 28.06.2017

W/15/1901 - Notification for Prior Approval (under Class C, Schedule 2, Part 3 of the GPDO) for a Change of Use from Shops (Class A1) to Restaurants and Cafes (Class A3) - Refused (planning permission required) 14.01.2016

## **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)
- DP4 - Archaeology (Warwick District Local Plan 1996 - 2011)
- DP8 - Parking (Warwick District Local Plan 1996 - 2011)
- UAP1 - Directing New Housing (Warwick District Local Plan 1996 - 2011)
- TCP2 - Directing Retail Development (Warwick District Local Plan 1996 - 2011)
- TCP6 - Cafe Quarters (Warwick District Local Plan 1996 - 2011)
- TCP8 - Warwick Town Centre Mixed Use Area (Warwick District Local Plan 1996 - 2011)
- DAP4 - Protection of Listed Buildings (Warwick District Local Plan 1996 - 2011)
- DAP5 - Changes of Use of Listed Buildings (Warwick District Local Plan 1996 - 2011)
- DAP7 - Restoration of Listed Buildings (Warwick District Local Plan 1996 - 2011)
- DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)
- SC13 - Open Space and Recreation Improvements (Warwick District Local Plan 1996 - 2011)

### The Emerging Local Plan

- TC2 - Directing Retail Development (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TC8 - Warwick Cafe Quarter (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TC11 - Warwick Town Centre Mixed Use Area (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- H1 - Directing New Housing (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- 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)
- TR4 - Parking (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)

- HE1 - Protection of Statutory Heritage Assets (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- HE2 - Protection of Conservation Areas (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)

#### Guidance Documents

- The 45 Degree Guideline (Supplementary Planning Guidance)
- Vehicle Parking Standards (Supplementary Planning Document)
- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Open Space (Supplementary Planning Document - June 2009)

### **SUMMARY OF REPRESENTATIONS**

**Warwick Town Council:** No objection

**WCC Ecology:** No objection; notes recommended

**WCC Highways:** No objection

**Health and Community Protection (Environmental Sustainability Section):** No objection subject to condition

**CCTV:** No objections

**Green Space team:** No objections subject to condition

**Public Response:** 7 letters of objection received raising the following concerns:-

- the proposal is an area in need of more A1 retail use
- this will lead to more noise and disturbance
- the occupants of the flat above No.9 will be affected by increased noise from the unit below
- the archway between Nos.7 and 9 is out of character and any doorway would destroy their integrity

a mix of businesses should be retained in this part of the town

### **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 heritage assets
- The impact on living conditions of nearby dwellings
- Car parking and highway safety
- Sustainability
- Ecological impact
- Open space
- Health and Wellbeing

## Principle of the change of use

The principle of development is twofold; firstly there is the change of use of the ground floor from A1 to A3 and additionally there is the change of use of the upper floors into a single flat.

### *Change of use from A1 to A3*

Since the site lies in Warwick's designated Café Quarter, saved policy TCP6 of the Warwick District Local Plan is relevant. This permits the change of use from general shops (use class A1) to restaurants and cafés (use class A3) within Market Place and Old Square. The site is in the latter, as defined on the Proposals Map.

Further to the above, saved policy TCP2 which seeks to protect the retail areas in the town (of which this site is one) prohibits the change of use of any A-class use to another use falling outside the A-classes and states the policy applies to any A-class use on upper floors as well as at ground floor level.

The above provisions are carried forward in part into the emerging Local Plan policies. TC3 reiterates the provisions of TCP2 however, in respect of the café quarter, Old Square has not been specifically referenced in the same way as Market Place in emerging policy TC8. Nevertheless, since the proposed change of use remains within the A-class group, it is considered that the change of use of the ground floor from vacant shop to restaurant is acceptable in principle in accordance with both the saved and the emerging local plan policies.

### *Conversion of upper floors to a residential flat*

Saved Local Plan policy UAP1 relates to the direction of new housing and states that residential development will be permitted on previously developed land and buildings within the confines of the urban areas. The site is located within the confines of the urban area and would make use of the upper floors of an existing building. Emerging Local Plan policy H1 reiterates the preference to locate housing in the first instance to within the Urban Areas.

The provisions of saved policy TCP2 are noted, which seek to protect the upper floors of buildings in A-class uses as well as just the ground floor, however, since the upper floors of No.9, the subject building, were previously used as offices (use class B1), there is no objection in principle to the change of use of the first and second floors to a single flat.

Overall, it is considered that the proposals to change the use of the ground floor to A3 (from vacant A1) and the upper floors from B1 offices to a single flat are acceptable in principle and accord with the relevant provisions of the Development Plan and the emerging Local Plan.

## 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 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 vacant retail unit at ground floor to A3 use which would be associated with the adjacent No.7, is already in use as a restaurant and would not require any physical alterations to the external appearance of the building. A separate listed building consent has already been approved since this application was submitted, for the exterior painting of the building, including walls, windows and doors and other than the approved changes, no other external alterations are proposed to facilitate this proposed change of use. Similarly, on the upper floors of the building, where the change of use to a flat has already taken place, no physical alterations are proposed to the exterior of the building and accordingly. Since the appearance of the building would remain unchanged, it is not considered that either of the changes of use would impact on the character of the area and general 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.

#### *Listed Buildings*

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, "In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

#### *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 policies DAP4, 5, 6 and 7 are all concerned with the general protection, preservation and restoration of listed buildings, including upper floors, access to which should not be prevented through development proposals, and overall seek to ensure that proposals are sympathetic to the special architectural or historic interest, integrity or setting of the listed building. Additionally, DAP8 requires development to preserve or enhance the special architectural and historic interest and appearance of Conservation Areas.

Emerging Local Plan policy HE1 carries forward all of the same over-arching principles set out within DAP4-7 stating that development will not be permitted that would adversely affect the special architectural or historic interest, integrity

or setting of the listed building, while policy HE2 requires that new development should make a positive contribution to the local character and distinctiveness of the 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.

Officers have had extensive involvement with both this application and the associated listed building consent application. Overall, very little change is proposed to the fabric of the listed buildings to facilitate the proposed changes of use; the key element is the internal works, which is the subject of a separate listed building consent application. As far as the planning application for No.9 is concerned, since no structural or other aesthetic changes are proposed to facilitate the change of use, no objection is raised from a conservation point of view. Illustrative drawings of new signage were submitted with the application however, any new signage would need to be subject to a separate application for advertisement consent, which, at the time of writing this report has not been submitted. Any signage therefore does not form part of these proposals.

Overall, it is considered that the proposed change of use of the ground floor from A1 to A3 together with the retrospective change of use of the upper floors from B1 offices to a single flat would cause no adverse impact on the special architectural or historic interest, integrity or setting of the listed building and similarly, there would be no adverse harm caused to the special architectural and historic interest and appearance of the Warwick Conservation Area.

In making this assessment, regard has been had to the weight that should be given to the desirability of preserving the special interest and setting of the heritage assets.

Overall, the proposal is considered to comply with saved Local Plan policies DAP4, DAP5, DAP6, DAP7 and DAP8 as well as emerging Local Plan policies HE1 and HE2.

#### 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 changes of use would result in no physical alterations to the building that might otherwise cause material harm to neighbouring properties and other land uses in terms of overbearing, overlooking or overshadowing.

Environmental health require sound attenuation from the new A3 use at ground floor to avoid noise disturbance to the occupiers of the flat above. The appropriate solution would be to install a suspended ceiling, which can be

secured by way of an appropriate condition, to be imposed in the event permission is forthcoming.

Overall, the proposal is considered to comply with saved Local Plan policy DP2 and emerging policy BE3.

#### Car parking and highway safety

The County Highways Authority has raised no objection to the application, stating that there is no parking associated with the development apart from the limited parking on Northgate Street which is subject to parking restrictions. They also advise that the flat would not be entitled to parking permits within any of the surrounding parking zones, although there are nearby surface car parks that could offer some parking provision for future residents of the flat.

Notwithstanding this advice from the Highways Authority, the Traffic Regulation Orders mapping system has also been consulted to identify what, if any, parking zones might be located within the vicinity of the application site. Incidentally, the flat *would* be eligible to apply for a parking permit for nearby streets and accordingly, in line with the Council's Parking Standards SPD, and having regard to the Highway Authority's comments which are based on there being no parking permit entitlement for the flat, it is considered appropriate that the applicant should enter into a Unilateral Undertaking to amend the Traffic Regulation Order to restrict the ability for future occupants to apply for on street permits in the local area. This would make the development acceptable in planning terms.

Subject to the submission of an Undertaking being drafted and agreed it is considered that the development would not result in any detriment to highway safety and as such it is therefore considered that the development accords with saved Local Plan policies DP6 and DP8 and emerging policies TR1 and TR4.

#### Sustainability

Since the proposals involve changes of use of existing floor space rather than the construction of any new floor space it is not considered the development would significantly increase the energy demands of the unit, and accordingly it is not considered appropriate to require sustainable energy provision.

#### Ecological impact

The County Ecologist commented on the proposals and recommended some advisory notes based on the only external works proposed being new signage. However, since those works do not form part of this application for which permission is being sought it is not necessary to attach such advisory notes in the event permission is forthcoming for the development. Overall, the development would have no detrimental impact on ecological features.

#### Open space

Policy SC13 seeks contributions from residential (and commercial) developments to provide, improve and maintain appropriate open space, sport or recreational facilities to meet local needs. The proposed development would not make any on-site provision for open space and accordingly, having been assessed by the Open Space team, a contribution of £1,684 would be required which would be

put toward the development objectives of St Nicholas Park, relating specifically to planting and landscaping improvements as identified within the management plan for the park. The proposal is considered to accord with SC13 and is acceptable in this regard.

### Health and Wellbeing

There are no health and wellbeing issues raised.

### **CONCLUSION**

The change of use of the ground floor of No.9 from vacant shop (use class A1) to restaurant (use class A3) is acceptable in accordance with saved Local Plan policies TCP2 and TCP6 as well as emerging Local Plan policy TC2. Likewise, the change of use of the upper floors from B1 offices to a single residential flat (use class C3) is considered acceptable in principle in accordance with saved Local Plan policy UAP1 and emerging Local Plan policy H1.

The development does not involve any physical alterations or other works to the external appearance of the building and as such, it is not considered there would be any impact to the character of the area or the appearance of the street scene. Likewise, there would be no material harm to the special architectural or historic interest, integrity or setting of the listed building and similarly, nor would there be any adverse harm caused to the special architectural and historic interest and appearance of the Warwick Conservation Area. No harmful impacts would arise to the amenity of neighbouring uses and a suitable condition imposed on any planning permission can ensure that the noise from the A3 use at ground floor does not impede the living conditions of the occupiers of the upstairs flat.

Overall, the development is considered to be acceptable having regard to all the relevant provisions of the Development Plan and the NPPF and for these reasons it is recommended that planning permission be granted subject to the conditions and notes listed below.

### **CONDITIONS**

- 1 The development hereby permitted shall begin not later than three years from the date of this permission. **REASON:** To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawing RJW 13/03/2 and specification contained therein, submitted on 10 April 2017, approved drawing SG/01 and specification contained therein, submitted on 19 April 2017 and approved drawings SG/0 and Attachment D - Revised Dimensions 28 July 17, and specification contained therein, submitted on 28 July 2017. **REASON :** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.

- 3 The approved ground floor restaurant of the development hereby permitted shall not be brought into use, unless and until:-
- a) a noise insulation scheme has been submitted to and approved in writing by the Local Planning Authority to ensure that noise levels from the ground floor restaurant do not cause detriment to the amenity of the occupiers in the residential flat above and meet the recommendations set out in British Standard 8233 (2014) 'Sound Insulation and Noise Reduction for Buildings'; and
  - b) the noise insulation scheme approved under (a) has been implemented in full accordance with the approved details. Once implemented the approved scheme shall not be removed or altered in any way without the prior written approval of the local planning authority.'

**REASON:** To ensure that the premises are not used in a manner prejudicial to or likely to cause nuisance or disturbance to the occupiers of nearby properties in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011.

- 4 Unless the Local Planning Authority certifies that suitable alternative provision has been made for the provision or improvement of open space within the catchment area of the application site in accordance with Policy SC13 of the Warwick District Local Plan 1996-2011:

(i) no development shall commence unless or until a scheme for such provision or improvement (identifying the size/extent, location and specification of the space and works) has been submitted to and approved in writing by the Local Planning Authority; and

(ii) the dwellings hereby permitted shall not be occupied until the scheme so approved has been implemented.

**REASON:** To ensure the necessary infrastructure and facilities are provided in accordance with Policy SC13 of the Warwick District Plan 1996 – 2011.

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