

Planning Committee: 20 March 2012

Item Number: **22**

Application No: W 12 / 0140

Town/Parish Council: Leamington Spa
Case Officer: Rob Young

Registration Date: 09/02/12
Expiry Date: 05/04/12

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144 Parade, Leamington Spa, CV32 4AG

Change of use from a shop (Use Class A1) to financial and professional services (Use Class A2) (retrospective application) FOR Mr A King

This application is being presented to Committee because it relates to a property and a use that Committee recently resolved to take enforcement action against.

SUMMARY OF REPRESENTATIONS

Town Council: Comments will be included in addendum report.

WDC Conservation: The loss of retail is unfortunate in this location. I believe this is also a Listed Building and therefore there could be signage issues which would need a separate application.

RELEVANT POLICIES

- DAP4 - Protection of Listed Buildings (Warwick District Local Plan 1996 - 2011)
- DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)
- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- TCP4 - Primary Retail Frontages (Warwick District Local Plan 1996 - 2011)

PLANNING HISTORY

Planning applications for a change of use from a shop (Use Class A1) to financial and professional services (Use Class A2) were refused in 2006 and 2007 (Refs. W06/0818 & W07/1657). A further planning application for a change of use to a restaurant (Use Class A3) was refused in February 2011 (Ref. W10/1578). The reasons for refusal related to a contravention of the thresholds set out in Local Plan Policy TCP4 and a concern that the proposed changes of use would result in a harmful concentration of non-A1 uses in this Primary Retail Frontage, which would detract from the vitality and viability of this part of the Town Centre.

Since the above decisions were made, there have been two appeal decisions relating to similar proposals for other premises within the same Primary Retail Frontage. In April 2011 planning permission was granted on appeal for the change of use of No. 136 Parade from a shop (Use Class A1) to financial and professional services (Use Class A2). In December 2011 planning permission was granted on appeal for the change of use of No. 164 Parade from a shop (Use Class A1) to financial and professional services (Use Class A2).

In relation to the application property there is also an application for listed building consent currently under consideration for "Display of non-illuminated fascia sign; installation of internal stud partition walls and counters; replacement of existing internal security grilles to rear windows; installation of security grille to roof light; refurbishment of existing suspended ceiling; installation of external security camera on rear elevation (Part-Retrospective Application)" (Ref. W11/0572LB). It is considered that the principle of the change of use of the application premises can be considered separately from these physical alterations to the Listed Building. Notwithstanding the alterations that have been shown in the application for listed building consent, the proposed use could be accommodated without the need for harmful alterations to the Listed Building and therefore the two applications can be considered independently. Granting planning permission for the change of use would not bind the Council into approving the alterations to the Listed Building.

In November 2011 Planning Committee resolved to take enforcement action to secure the cessation of the unauthorised A2 use of the application premises. However, no enforcement notice has been issued because shortly after that meeting the Council received the appeal decision for No. 164 Parade and it was thought that the Council should reconsider whether it would be appropriate to take enforcement action in the light of that decision.

KEY ISSUES

The Site and its Location

The application relates to the ground floor of a 4 storey Grade II Listed Building situated on the western side of Parade, within the Leamington Spa Conservation Area. Parade is the principal shopping street within Leamington Town Centre. The site is within a Primary Retail Frontage. The ground floor is currently used as a pawnbrokers / cheque cashing / money lending premises (Use Class A2) but the lawful use of the premises is as a shop (Use Class A1).

Details of the Development

This is a retrospective application for a change of use from a shop (Use Class A1) to financial and professional services (Use Class A2).

Assessment

The main issue relevant to the consideration of this application is the impact on the vitality and viability of the Town Centre.

The proposed change of use would be contrary to Local Plan Policy TCP4 because over 60% of this Primary Retail Frontage is already in non-A1 use (well in excess of the 25% limit) and the proposals would result in a continuous non-A1 frontage of more than 16m (in combination with the adjacent Pizza Hut premises). Three previous planning applications for changes of use of the application premises to non-A1 uses have been refused for this reason. However, since those decisions were made, there has been a material change in economic conditions and in particular a change in the performance of the retail frontage that the application premises sit within. Furthermore, planning permission has recently been granted on appeal for changes of use from A1 to A2 use for 2 other units within this frontage. In granting planning permission in

those cases, the Appeal Inspectors concluded that the following material considerations outweighed the conflict with Local Plan Policy TCP4:

- the Primary Retail Frontage has a high vacancy rate and is under-performing;
- nearby units have been vacant for prolonged periods, some dating back to 2007;
- given the high vacancy rates, a refusal of planning permission is only likely to result in the premises remaining vacant for a significant period;
- high vacancy levels undermine vitality and viability more than A2 uses;
- this is a peripheral location in retail terms;
- the character of this Primary Retail Frontage changes to the south of the junction with Livery Street such that this part of the frontage is characterised by vacant units, units not used for A1 purposes and retailers who are more specialist in nature and so rely less of passing trade; and
- keeping the premises in active use is the best way of securing the upkeep of this Listed Building - if the unit remained empty for a significant time its condition could degenerate and its contribution to the Conservation Area could be harmed.

These appeal decisions are very recent (dating from April and December 2011) and relate to the same part of the Primary Retail Frontage that the application premises are located within (No. 136 Parade is 19m to the north of the site, while No. 164 Parade is 68m to the south of the site). There has been no material change in the economic conditions of this retail frontage since those decisions were made. Furthermore, those proposals were also for A2 uses, with No. 136 being a pawnbroking / money lending business that is similar to the business that is being carried out in the application premises. Moreover, the current proposals also relate to a Listed Building situated within a Conservation Area. For these reasons, I consider that these appeal decisions carry significant weight in the assessment of the current proposals. It should be borne in mind, however, that the two appeal cases did not contravene the second criteria of Policy TCP4 (i.e. the restriction on creating a continuous non-A1 frontage of more than 16m) because there were retail units either side of those premises. Nevertheless, the application premises were vacant prior to the current A2 use commencing and in the current circumstances there is every reason to believe that a refusal of planning permission would lead to a prolonged period of vacancy and consequent harm to the vitality and viability of the town centre and the potential degeneration of this Listed Building. I am also conscious that the Ministerial Statement on Planning For Growth seeks to promote sustainable economic growth and jobs. Therefore, in my opinion, the material considerations listed in the above bullet points would outweigh the conflict with Local Plan Policy TCP4 in this particular case.

As this application relates solely to the use of the premises (replacing one commercial use with another), I do not consider that any objection can be raised in terms of the impact on the character and appearance of the Listed Building or the Conservation Area. There have been internal alterations that are the subject of a separate application for listed building consent and those changes will be dealt with in the assessment of that application. Similarly, signage would have to be the subject of separate applications for listed building consent and advertisement consent.

RECOMMENDATION

1. GRANT, subject to no conditions.

2. Rescind the authorisation to take enforcement action against the use of the premises for A2 purposes.

INFORMATIVES

For the purposes of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, the following reason(s) for the Council's decision are summarised below:

In the opinion of the District Planning Authority, the use preserves the vitality and viability of the town centre and would not harm the character and appearance of the Listed Building or the Conservation Area. The proposal is therefore considered to comply with the policies listed.
