

Planning Committee: 25 February 2014

Item Number: 10

Application No: W 14 / 0040

Town/Parish Council: Kenilworth
Case Officer: Penny Butler

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Registration Date: 13/01/14

Expiry Date: 10/03/14

33-35 Abbey End, Kenilworth, CV8 1QJ

Proposed change of use of unit 33 from Use Class A3 (restaurant) and unit 35 from A1 (retail) to A4 (drinking establishments). Erection of a single storey rear extension to unit 35. FOR Mr Kuller

This application is being presented to Committee due to an objection from the Town Council having been received.

RECOMMENDATION

Planning Committee are recommended to GRANT planning permission subject to the conditions listed.

DETAILS OF THE DEVELOPMENT

The proposal is for the change of use of the currently vacant ground floor retail unit (Use Class A1) at no. 35, and the ground floor restaurant which is still in use (Use Class A3) at no. 33 to a drinking establishment (Use Class A4). The proposed layout plan shows the two units knocked into one with one large room containing the bar, a kitchen, toilets and preparation room.

A single storey rear extension is proposed at the rear of no.35 to provide toilet facilities, which will be flat roofed to tie in with the existing flat roof rear extension to no. 33. Refuse storage will be provided within an enclosed area at the rear, as requested by the Refuse Officer. A premise licence was granted in November 2013 with the opening hours of 07.00-01.00 Monday to Sunday, with live music (limited to two performers unamplified) till 24.00.

THE SITE AND ITS LOCATION

The application site consists of the ground floor unit numbered 33 and 35 which are sited at the southern end of the terrace of commercial units on the eastern side of Abbey End. The site lies within the retail area of Kenilworth Town Centre as defined in the Local Plan, and within the Conservation Area. No.12 is the right hand part of a building split into two units at ground floor, with residential uses above. On the southern side is a barbers and on the northern side is a retail use. At the rear is a shared private access to garages, with a terrace of dwellings beyond fronting Friars Street. Lying opposite on West Street, are terraced dwellings including Listed Buildings.

PLANNING HISTORY

Planning permission was granted for improvement to the shop fronts, rear extensions and a front canopy to the block in 2001, and for a rear extension to no.33 in 1976 and 1986. Various permissions have been granted for advertisements on both units between 1975 and 1995.

RELEVANT POLICIES

- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP9 - Pollution Control (Warwick District Local Plan 1996 - 2011)
- DP8 - Parking (Warwick District Local Plan 1996 - 2011)
- Vehicle Parking Standards (Supplementary Planning Document)
- TCP2 - Directing Retail Development (Warwick District Local Plan 1996 - 2011)
- TCP5 - Secondary Retail Areas (Warwick District Local Plan 1996 - 2011)

SUMMARY OF REPRESENTATIONS

Kenilworth Town Council: Raise objection on the following grounds:

- Loss of A1 use and an increasing number of drinking establishments, due to extant permission on the neighbouring and pending redevelopment. Two bars in such close proximity was considered to be over-concentration.
- Concern regarding the adverse environmental impact on the residential flats above. (Members draw Officers attention to the recent Planning Appeal decision on application W/13/0257 at Russell St, L'Spa for change of use from office to residential adjacent to a public house)
- Concern because the property is so close to the heavily utilized pedestrian walkway leading to/from the car park, the Senior Citizens facility, the Kenilworth Centre and Wilton Court. Notwithstanding a designated 20 mph speed limit, the area will become more dangerous because of brewery deliveries.
- The rear extension proposed will reduce waste storage and access in an already congested area, as well as affecting day deliveries on a site adjacent to two 90-degree road bends.

Public response: One objection received from no. 11 Abbey End (above) raising the following concerns:

- Harm to character of area
- Loss of privacy
- Noise and disturbance, especially late at night as the use is below them, and in addition to The Almanac.
- Increase traffic generation, especially taxis, and the bus/taxi area adjacent is already very busy due to The Almanac.

Health and Community Protection (EHO): Were consulted on the premises licence which has been granted, and have resolved all concerns. No adverse comments subject to a condition requiring submission of a sound insulation

scheme, in association with any internal decoration or renovation scheme, to prevent disturbance to the adjoining residential accommodation.

Waste Policy and Performance: The refuse and recycling bins must be stored on the footprint of the development and within a purpose built bin compound screened from view.

Police: No comments available at time of writing report. Comments will be reported directly to Planning Committee.

Community Protection: No comments available at time of writing report. Comments will be reported directly to Planning Committee.

Warwickshire Police: Raise no objection and recommend crime prevention measures.

ASSESSMENT

Principle of use

The site is within a defined secondary retail area where non-retail uses are controlled in order to protect the vitality and viability of the town centre. Policy TCP5 applies to such areas and does not permit more than 50% of street frontages to be in non-retail use, or greater than 16m of continuous frontage to be non-retail. Since the Subway unit occupying no. 37 falls under a retail use, the second criterion would be complied with. The existing uses in the frontage which runs from no.33 to no.59, including the proposed use, would result in 36% of the units in the frontage being in non-retail use. Since this is below the 50% limit the proposed use is acceptable in principle, since it would comply with Policy TCP5. Policy TCP2 would also be complied with since an A Class use is being retained.

Impact on visual amenity and character of area

The proposed extension would not have a significant impact upon visual amenity, since the proposed extension would tie in with the existing, and that on the adjoining neighbouring unit. The bricks will match those on the existing building. The concerns raised by local residents relating to a change in the character of the area are noted, however, given the premises lie within the town centre where there are other public houses nearby, it is not considered that the use would have a significant impact upon existing character. If tables and/or chairs were desired on the pavement then a separate licence from the Highway Authority would be required. Should such a licence be granted, it is not considered that this would harm the character of the area, as tables and chairs are already sited outside The Almanac. The use would lead to customers standing on the pavement outside the front or side of the building smoking, but given the wide pavement and the existence of these outside The Almanac, this would not be out of character. Future signage could be controlled by a separate application for advertisement consent if required. The proposed change of use is therefore

considered to comply with Policy DP1, since it would not harm the character of appearance of the area.

Impact on residential amenity and crime

Generally A4 uses have the potential to create noise and disturbance to surrounding residents, therefore the matter has been carefully considered by the Environmental Health Officer. It is material to consider the existing uses in the vicinity of the application site, where there is a take away and restaurant in the same terrace, and a public house at the northern end of Abbey End 75m away (The Almanac). There are flats directly above the premises and also above the under pass adjacent. Abbey End is a main traffic route into the town where there are numerous public houses. The under pass adjacent provides access to the car park, and links to a public footpath running between residential properties to Southbank Road. There was an appeal allowed to change the use of approved units on the opposite side of the under pass, but this has expired (ref. W/08/0091). The case referred to by the Town Council (Russell St, L'Spa) is similar in that flats were proposed in close proximity to and A4 use, but with a much closer relationship with windows opening directly into a pub garden.

The applicant has been granted a premises licence, on which Environmental Health were consulted, and were able to address concerns regarding the potential for the proposed use to cause disturbance to surrounding residential premises. Environmental Health therefore have no adverse comment on the application, subject to the imposition of a condition requiring a noise insulation scheme to be submitted with any internal renovation scheme. This is because the existing building provides adequate noise attenuation, but this should not be compromised by any future alterations.

Given that the application site lies within a designated retail area where the proportion of non-retail uses are limited, but in the case of this proposal complied with, that there is not a proliferation of A5 uses in the immediate area, and there is no evidence of pre-existing noise and disturbance associated with anti-social behaviour, it is considered there are insufficient grounds to refuse the application on amenity grounds. However, suitable conditions are required to exercise control over the use, in the interests of preserving amenity to include opening hours limited to the licence (07.00-01.00 which is the same as The Almanac), and the refuse store to be provided prior to the use commencing. With these controls, the proposal would not cause unacceptable noise pollution or harm to resident's amenities, and would comply with Policies DP2 and DP9. Sufficient provision for waste storage are provided without detriment to the street scene, in accordance with Policy DP1.

The views of the Community Safety Officer have been requested and will be reported directly to Planning Committee, whilst Warwickshire Police raise no objection to the proposed use. Policy DP14 requires development to minimise the potential for crime and anti-social behaviour and improve community safety, whilst the NPPF requires that crime and disorder, and the fear of crime, does not undermine the quality of life or community cohesion (para. 58). In the absence of evidence demonstrating that there is an existing crime problem, it is not

considered reasonable to refuse the application on the grounds of public safety, as the use in itself cannot be proven to increase crime.

Impact on parking

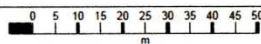
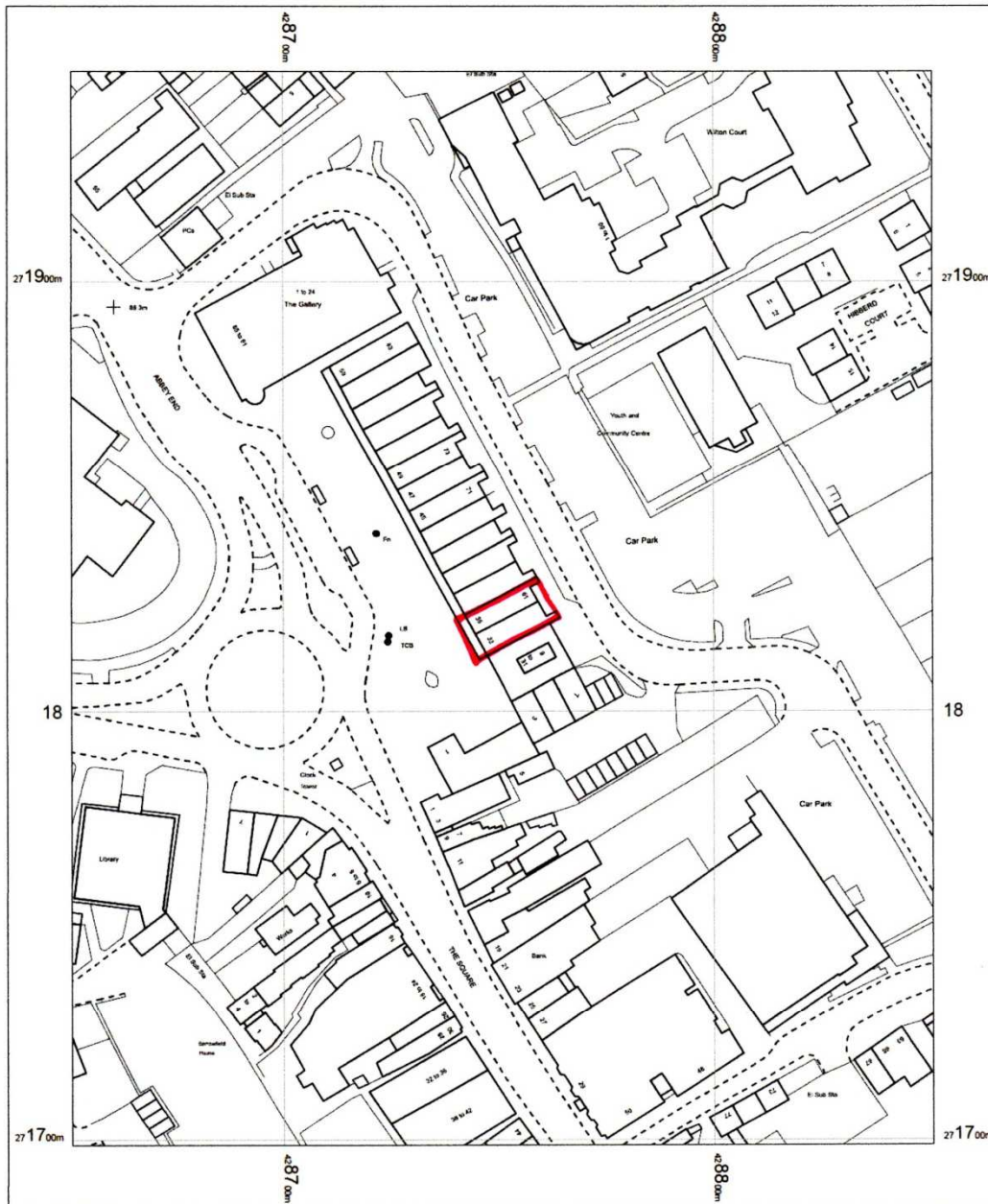
The existing use has two off street parking spaces at the rear, and the proposed A4 use has the same parking requirement as the existing A1 use, according to the Council's adopted Vehicle Parking Standards SPD (one space per 50sq.m). The proposed use would not therefore lead to a greater parking demand. The floor space of the unit is some 201sq.m, therefore requiring 4.18 parking spaces. Given the sustainable location of the use, in the town centre with a public car park adjoining the use, and the fact that the existing parking requirement is the same of the proposed, there are insufficient grounds to refuse permission due to insufficient parking. The proposal is not therefore considered to conflict with Policy DP8.

SUMMARY/CONCLUSION

The proposed use would not cause unacceptable levels of noise pollution or other disturbance, would not materially worsen the existing on street parking situation, would not harm visual amenity and would maintain the retail predominance of the frontage. The proposal would therefore comply with the policies listed.

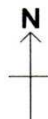
CONDITIONS

- 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(s) (4272-01-A submitted on 28 January 2014), and specification contained therein. **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 use hereby permitted shall only be open to the public and customers during the hours of 07.00 and 01.00 Monday to Sunday. **REASON:** To ensure that the buildings are not used at a time which would be likely to cause nuisance or disturbance to nearby residents in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011.
- 4 The use hereby permitted shall not be brought into use prior to the provision of the refuse store shown on the approved drawing (no.01A submitted on 28 January 2014). **REASON:** To ensure suitable refuse storage is provided for the use, in accordance with Policy DP1 of the Warwick District Local Plan 1996-2011.

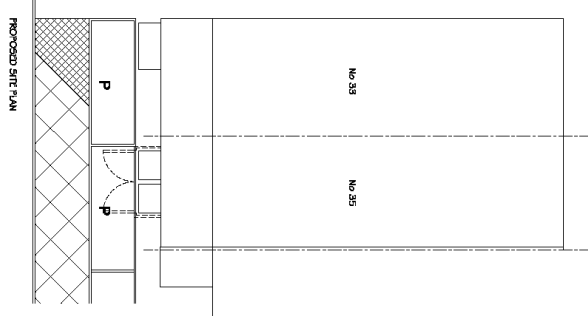
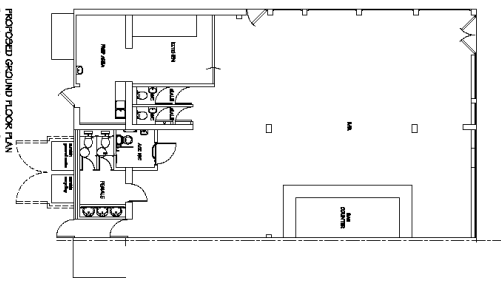
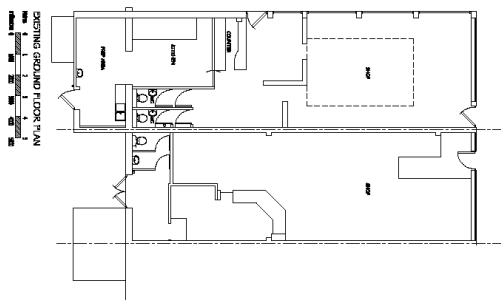
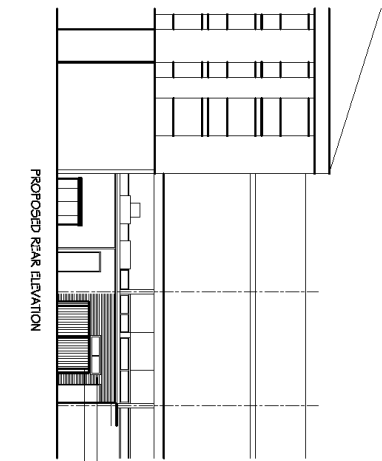
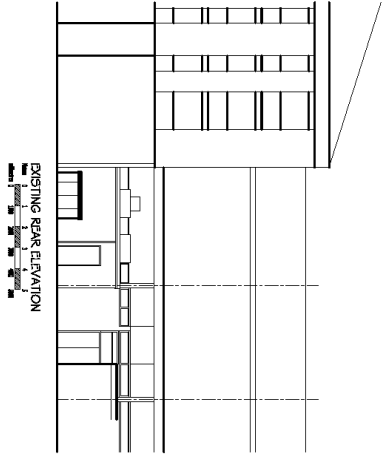


35 Abbey End Kenilworth CV8
1QJ

OS MasterMap 1250/2500/10000 scale
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Rev	Date	Description	By	Checked
1	10/11/14	General Utility/Plumbing systems, electrical, mechanical, and fire alarm systems.	SB	
		For Approval	<input type="radio"/>	<input type="radio"/>
		For Tender	<input type="radio"/>	<input type="radio"/>
		For Construction	<input type="radio"/>	<input checked="" type="radio"/>
		For Records	<input type="radio"/>	<input type="radio"/>

CONTRACTOR'S CERTIFICATE

ACCEPTED FOR CONSTRUCTION OF THE ABOVE PROJECT BY THE CONTRACTOR.

DATE: 11/10/14 BY: [Signature]

OWNER'S CERTIFICATE

APPROVED FOR CONSTRUCTION OF THE ABOVE PROJECT BY THE OWNER.

DATE: 11/10/14 BY: [Signature]

PROJECT TITLE: 33 - 36 ABERNETHY ROAD, NEW WORTH, ONTARIO

OWNER: J. BARTON ARCHITECTS, INC.

DESIGNER: J. BARTON ARCHITECTS, INC.

DATE: 11/10/14 BY: [Signature]

