

Planning Committee: 28 March 2023

Item Number: 6

Application No: [W 22 / 1558](#)

Town/Parish Council: Kenilworth
Case Officer: Michael Rowson
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Registration Date: 10/10/22
Expiry Date: 05/12/22

18-24 The Square, Kenilworth, CV8 1EB

Change of use from retail (Use Class E) to Public House/ restaurant (Sui Generis/ Class E) together with the provision of external terrace, acoustic screening and canopy to the rear; demolition of a concrete delivery canopy and roller shutter doors; alterations to the front & rear fenestration; and installation of plant equipment (resubmission of application ref. W/22/1242) FOR JD Wetherspoon PLC

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

RECOMMENDATION

Planning Committee is recommended to grant planning permission, subject to the conditions set out at the end of this report.

DETAILS OF THE DEVELOPMENT

The application proposes the change of use of the premises from retail use (Use Class E) to a Public House/ restaurant use (Sui Generis / Class E), together with the remodelling of the front and rear elevations and creation of an external pub garden to the rear, which would involve erection of an acoustic fence around the garden with a section of glazed roof to the north.

In addition, the proposal would include the remodelling of the front and rear elevations and the inclusion of an external fire escape staircase and bin store on the south elevation.

THE SITE AND ITS LOCATION

The application site is a two-storey commercial building fronting The Square, Kenilworth. The building is currently vacant and was most recently in retail use (Use Class E).

The primary elevation is a red brick, modern facade under a brown clay tiled roof, with a large two storey element with a flat roof projecting to the rear. The rear elevation includes service doors fronting onto an area of forecourt delivery and servicing area. The flat roof of the building includes rooftop plant, behind a parapet wall.

Adjacent properties consist of commercial units and residential flats. At the rear of the site is a car park, beyond which are further dwellings.

The site is within the Kenilworth Town Centre boundary and a primary retail frontage within the Kenilworth Retail Area

RELEVANT PLANNING HISTORY

W/22/1242 - Change of use from a retail (Class E) to public house/restaurant (sui generis/ Class E) together with the provision of an external terrace to the rear; demolition of a concrete delivery canopy and roller shutter doors; alterations to the front and rear fenestration; and installation of plant – WITHDRAWN.

RELEVANT POLICIES

- National Planning Policy Framework
- Warwick District Local Plan 2011-2029
- BE1 - Layout and Design
- BE3 - Amenity
- TCP1 - Protecting and Enhancing the Town Centres
- TC2 - Directing Retail Development
- TC6 - Primary Retail Frontages
- TR3 - Parking
- TR1 - Access and Choice
- Kenilworth Neighbourhood Plan (2017-2029)
- KP1 - Town Centre
- Guidance Documents
- Parking Standards (Supplementary Planning Document- June 2018)
- Residential Design Guide (Supplementary Planning Document- May 2018)

SUMMARY OF REPRESENTATIONS

Kenilworth Town Council: No objection. Comments:

- A planning condition should restrict the use of the beer garden until 9pm
- A planning condition required to ensure elimination of noise and smell nuisance, including from extract ventilation
- A planning condition should restrict delivery times for HGV vehicles as appropriate
- Any noise assessment should include the beer garden and consider properties in Barrow Road.
- A Traffic Survey should be undertaken
- Members remained concerned at delivery vehicles blocking the rear access road
- Members expressed concern as to pedestrian safety due to increasing usage of adjacent alleyways. A contribution for appropriate additional lighting should be sought from the applicant.

With reference to WDC Local Plan Policy SC0 "Sustainable Communities" and Kenilworth Neighbourhood Plan Policy KP15 "Environmental Standards of New Buildings", Kenilworth Town Council requests that the applicants address matters relating to the environmental impact of the development with the aim of the resulting development.

property, in its entirety, having an improved energy efficiency and water efficiency, where affected, compared to the existing property.

Environmental Health Officer: No objection subject to conditions relating to opening hours, a noise mitigation scheme, restrictions on plant noise, delivery hours, amplified music, cooking odours and construction management.

WCC Highways: No objection.

WCC Ecology: No objection, subject to notes regarding bats and birds.

Designing Out Crime Officer - Warwickshire Police: No objection. A gate is recommended forward of the existing gate on 16A and 16B to limit any anti-social behaviour to the rear of the boundary.

Public Response: 33 responses have been received (21 support, 11 objection and 1 neutral) raising the following issues:

Support:

- A good addition to the high street with affordable prices
- There would be no impact on neighbouring amenity.
- The design is a much-needed improvement
- Increased footfall within the town would benefit the local economy.
- There is a precedent for outdoor eating at Abbey End
- The proposal would provide healthy competition and extra business and jobs.
- The existing building is an eyesore.
- It will keep younger people in Kenilworth and reduce pollution from those going to other towns.
- The proposal compliments existing businesses.
- Conditions restricting deliveries to the rear and preventing external sound systems should be included.

Objection:

- There are already too many pubs in the area
- Impact on neighbouring living conditions:
 - Noise from customers and deliveries
 - Privacy concerns
 - Safety
 - Nuisance
 - Odours
- Independent shops are needed
- It will impact other businesses
- It will kill the town and bring in people that are not supporting locals.
- It will cause negative attitudes
- Safety hazards:
 - Rear access onto car park is dangerous
 - Additional delivery vehicles manoeuvring is risky due to existing congestion
- It will cause negative attitudes

- The town needs more variety of shops and restaurants
- The pub will lower the value and perception of the town centre, attracting the wrong people
- There are many other places in the town centre than offer better outdoor seating areas
- The proposal will result in litter
- The sale of alcohol would take place next to homes of young children
- Increased antisocial behaviour in the adjacent alley way
- Congestion within the car park could prevent emergency vehicle access
- The frontage does not reflect the character of the area and surroundings.
- Increase in traffic at the rear

Neutral:

- A double gate could be erected at the entrance to 16A and 16B The Square, to allow for vehicular and pedestrian access, to improve the safety and security of residents and prevent customers entering this area.

ASSESSMENT

Principle of development

Local Plan Policy TC1 (Protecting and Enhancing the Town Centres) states that proposals for any of the main town centre uses will be permitted within town centres where they are of an appropriate scale in relation to the role and function of the town centre and provided that non-shopping proposals would not compromise their shopping function.

The site is within the Kenilworth Retail Area. Warwick District Local Plan Policy TC2 (Directing Retail Development) requires any retail development proposals to be located as a first preference in the retail areas within town centres. This is to maintain and enhance the viability of existing town centres through new development. This policy applies to all proposals for new retail development which is defined as shops (Use Class A1), financial and professional services (Use Class A2), restaurants and cafes (Use Class A3), drinking establishments (Use Class A4), and hot food takeaway (Use Class A5).

The site is within a primary retail frontage and is subject to the Warwick District Local Plan Policy TC6 (Primary Retail Frontages). Within the primary retail frontages, the policy permits changes of use from shops (Use Class A1) to other uses that are in the Use Class A category, including public houses and restaurants. It restricts the introduction of non-A1 uses on the most important shopping streets, such as The Square, in order to protect the retail character and function of these core areas.

The development seeks to change the use of a building that has remained vacant since January 2020 and has not contributed to the town centre economy in that time. As stated in Policy TC6, it is not in the best interests of the district's town centres, (both economically and environmentally) for units to be vacant for long periods. The proposed development would bring the unit back into use and support the economy of Kenilworth town centre.

Since the adoption of Local Plan and Policy TC6, a new Use Classes Order has been published. The former Use Classes cited in Policy TC3, such as A1, A2 and A3, have now been combined into Use Class E. Drinking establishments have been moved out of the former Use Class A into Sui Generis. The 2020 changes to the Use Class Order, which effectively allows the loss of retail uses, must be taken as a material consideration and have been afforded significant weight in favour of the proposal in as far as it relates to the loss of the retail use. Officers are aware that Covid-19 has accelerated existing retail trends, as a result of changing consumer behaviour, and the role of town centres are changing. The changes to the Use Class Order in 2020 are in response to a government approach which seeks to provide greater flexibility to town centre business premises. The current lawful use of the shop is Use Class E meaning that its use could be changed to any other use falling within this class such as an office, clinic, bank or research and development facility. The retail floor space could therefore in theory be lost at any time without planning permission.

It is noted that members of the public have differing views regarding the appropriateness of the proposed operator of the premises, J D Wetherspoons, and its impact on the economy of the town centre. However, this assessment relates to the proposed use, not the specific operator, as this could change at any future date. The proposed operator is therefore not a consideration which bears weight in this assessment.

The Local Plan recognises that town centres play an important part in supporting economic growth and encouraging investment, and that diversity in the town centre attracts people to use its shops and services, supporting new investment and jobs. Officers consider that the change of use to a restaurant and drinking establishment would ensure that the vitality of the town centre is maintained. The proposal is therefore deemed acceptable on the basis that it would meet the objectives of the Local Plan by supporting the functioning role of the town centre by providing a range of amenities and services to local residents.

Character and appearance

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.

Local Plan Policy BE1 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 requires 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.

Kenilworth Neighbourhood Plan 2017-2029 Policy KP1 (Town Centre) states that changes to shop fronts in The Square should demonstrate appropriate regard to the current Shop Front Guidance published by the Kenilworth Civic Society. That design advice states, amongst other things, that shopfronts design should seek a

balance between evoking a corporate imagine and achieving a sense of propriety to the existing building and surrounding area.

The character of The Square is formed by two, two and a half and three storey buildings of inconsistent widths with commercial premises and shopfronts at ground floor and a mix of uses above. The shop fronts are mixed in terms of quality, with a high proportion of modern glazed units and few traditional examples. The character of the upper floors along this stretch of The Square is also varied, including bay window features to properties to the north, windows of Georgian proportions opposite and fully glazed sections to the south, whilst some buildings also have a blank façade at first floor level. Essentially, the local street scene is a diverse mix of properties and designs of two, two and a half and three storey buildings, all of differing design and materials including brick and render finishes.

The proposal includes the remodelling of the front elevation of the building with a contemporary, lightweight design, with a high proportion of glazing. The elevation would be separated vertically into three sections, with the north and south sections including a shopfront fascia with access doors below and a central section having sliding floor to ceiling doors at ground floor level, opening onto The Square. At first floor, the front elevation would be predominantly glazed.

As stated above, the character of this section of The Square is mixed and includes modern shopfronts and some frontages which are predominantly glazed. Whilst the width of commercial units varies along the street, the design proposed has ensured that the character of the building maintains three sections, mimicking three shop fronts, which maintains a rhythm across the frontage. In light of the mix of frontage designs in the locality and that the site is not within a conservation area, the contemporary design and material palette proposed are considered acceptable and would not detrimentally impact the character of the building or the local area.

The shopfront would be constructed from aluminium glazing as recommended within the Kenilworth Shopfront Guidance and would improve the existing frontage onto The Square. The proposal is therefore considered to adequately comply with the principles set out in the guidance document.

The rear of the site fronts a car park and the rear of the properties facing The Square are generally characterised by utilitarian flat roof extensions of single and two storey height. The adjacent neighbour to the north is unusual in context and is a relatively modern two storey building consisting of flats and offices, beyond which is Kenilworth library, another two-storey building with a flat roof.

The rear of the premises consists of a large two storey, flat roofed building of utilitarian appearance. It includes a single storey element with a projecting flat roof. The rear elevation includes shuttered doors at ground floor and windows and ventilation grill at first floor level. The rear service yard includes a single storey lean-to structure on the northern side, whilst a trolley store building is positioned in the north-west corner.

The application proposes the remodelling of the rear elevation, with the existing single storey elements removed. The rear elevation would include windows and

glazed doors at ground and first floor level, which is considered to represent an improvement on the appearance of the existing building, whilst the retention of the existing air intake at first floor level is also considered acceptable.

The north and west boundary of the pub garden would be formed by an acoustic fence which would measure 3.0m in height on the west boundary, with a timber base and glazing above, increasing in height to a maximum height of 4.0m on the northern boundary, with that section including no glazing. A glazed roof with a lightweight appearance would cover the northern side of the garden and would be sloped to follow the sloping line of the acoustic fence. On the southern elevation, a 1.55m high glazed wall is proposed.

It is considered that removal of the existing structures at the rear of the building and replacement with a high-quality boundary treatment is acceptable in this location. The proposal would improve the appearance of the northern edge of the site which currently consists of mismatched fencing panels and flank elevations of a trolley store and single storey extensions.

The pub garden area would project beyond the rear elevation of the neighbouring property to the north. However, there is no strong building line in this area and the boundary would be limited in height and retain a sufficient gap to that neighbour to ensure that it would not appear visually overbearing on that building. It is therefore considered that the elements included in the creation of the pub garden would have a beneficial impact on the character of this predominantly commercial area.

In addition, it is considered that the proposed roof top plant and the external fire escape and bin store area on the south side of the building would not appear out of place within this town centre commercial area. The proposal is therefore considered acceptable in terms of design and appearance and complies with the above referenced policies.

Neighbouring Amenity

Policy BE3 of the Warwick District Local Plan states that new development that has an unacceptable adverse impact on the amenity of nearby uses and residents will not be permitted. The Residential Design Guide SPD provides additional guidance and stipulates the minimum requirements for distance separation between properties and that extensions should not breach a 45-degree line taken from a window of the nearest front or rear facing habitable room of a neighbouring property.

Whilst the immediately adjacent neighbouring premises are in commercial use at ground floor level, there are a number of dwellings adjacent and within close proximity to the premises which need to be considered in terms of the proposal's impact on their living conditions. These include 16A and 16B The Square, (which are flats above the commercial units to the north) and a residential flat above 26 The Square to the south. In addition, at the rear of 12 and 14 The Square there is a building containing a number of flats, some which face towards the flank of the subject site. Beyond the rear of the site, across the car park, are bungalow dwellings on Margetts Close and a flatted block on Barrowfield Close.

Impacts as a result of proposed structures and remodelling

The proposed acoustic fence on the north boundary would have a maximum height of 4.0m, reducing to 3.0m at the rear. The majority of the dwellings to the north (12A, B and C The Square) face south, onto the flank elevation of the existing two storey building and have a somewhat compromised outlook due to the proximity of that flank wall. Other windows, which serve an office and dwellings are positioned in the rear elevation, facing onto the car park. A close-boarded timber fence is currently positioned on the intervening boundary which measures approximately 1.80m in height.

The proposal would replace an existing lean-to structure at the rear of the building which measures a maximum height of 3.10m with one measuring 4.0m in height which would extend for a greater depth than that existing.

As stated above, the dwellings to the north include rear facing windows, facing onto the car park. The proposed boundary fence would not dissect a 45-degree line taken from the closest of those windows and would therefore not result in any harmful impact upon living conditions within.

The proposed acoustic fence would be visible from some of the south facing windows at 12A, B and C The Square and from within their shared amenity area. However, the limited increase in height of structures on that boundary, along with the separation distances involved (approximately 10.5m minimum) and the obtuse angle of view of the proposal, would prevent any harmful impact on the outlook or light available to those neighbouring residential properties. In addition, the limited height of the boundary fence would prevent any unacceptable level of overshadowing within the shared amenity area.

There are no side or rear facing windows at the neighbouring property to the south which would be impacted by the proposal and the closest neighbouring property to the rear would be over 45m distant and would therefore not be detrimentally impacted by the proposed extensions in terms of loss of light or outlook or unacceptable overshadowing.

The remodelling of the premises results in additional glazing in the front elevation of the building, facing the flats on the opposite side of The Square. It is noted that the premises has been in retail use, therefore overlooking between the properties at first floor level is long established. Whilst it is recognised that the increase in glazing may result in a greater degree of perceived overlooking within those dwellings, it is considered that occupiers within town centre locations recognise that a degree of overlooking is to be expected. As the proposal would not bring the first-floor windows closer to neighbours on the opposite side of The Square and the customer area would be relatively small and set back from the front elevation due to a two-storey void by the entrance, it is considered that the proposal would not result in any unacceptable loss of privacy.

To the south of the site, the proposal includes an external fire escape staircase and bin store area. The neighbouring property to the south (no.26) does not have any first-floor windows facing this area of the site, whilst the building to the south of that is in office use. As a result, neither element would have a detrimental impact on rear facing neighbouring windows.

Noise disturbance

At the request of the EHO, the applicant submitted an amended Noise Impact Assessment which considers the development noise impacts on surrounding dwellings. The assessment includes the collection of sound measurements at the site in two locations across a period of seven days and considers four potential activities that may give rise to noise disturbance to nearby sensitive receptors. These include noise from mechanical plant, customer noise in the proposed beer garden, noise breakout from the premises when the doors are open and noise from deliveries and the bin store. The assessment is based on a methodology developed from sound measurements obtained at various Wetherspoon's premises.

Noise from mechanical plant

The noise assessment submitted has determined that the proposed mechanical plant will have a low noise impact, equal to or below the existing background sound level. A condition has been recommended by the EHO and duly attached which ensures that noise arising from the plant or equipment does not exceed background noise levels.

Noise from the beer garden

The applicant has proposed to mitigate the noise impacts from the beer garden by installing acoustic fencing around the perimeter of the beer garden area. A glass canopy is also proposed over the section of the beer garden closest to the adjacent dwellings to the north.

The site is situated in the town centre and in proximity to a number of commercial properties and it is anticipated that a degree of noise already exists at the rear of the property due to commercial plant, pedestrian, and vehicle movements as well as vehicles undertaking deliveries and waste collections. Following submission of an amended noise impact assessment, which takes into consideration the proposed mitigation, the EHO has raised no objection to the noise impacts of the pub garden.

The opening hours of the beer garden have been controlled by licensing and would be limited to between 08:00 and 21:00 daily. As a result of the licensing control in place, the EHO has advised that a condition limiting the use of the beer garden is not required.

Noise from open doors

The Noise Impact Assessment considers the potential noise impacts from customers upon neighbouring dwellings at the front and rear of the premises when the bi-folding doors are open. The EHO has found that there would be no unacceptable impacts on the living conditions within neighbouring residential dwellings. They have recommended conditions limiting the opening hours of the premises which have been duly attached.

Noise transfer to adjacent dwellings

The existing premises is adjoined on either side by ground floor commercial units with residential dwellings above. It appears that the living room and bedroom of 16 The Square adjoins the premises at first floor level with an additional bedroom located at second floor level. A similar arrangement is also present at 26 The Square where the living room adjoins the premises at first floor level and a bedroom is located at second floor level. As the noise generated within the proposed development could give rise to adverse impacts on the amenity of the adjoining residential developments, the proposal includes sound insulation between the buildings. The EHO has requested a condition ensuring that the proposal is carried out in accordance with the submitted report and this condition has been duly attached.

Delivery hours

The applicant's Noise Report does not provide a calculation of the potential noise impacts from deliveries, however, it identifies that these will be completed during the normal working day. The impact from delivery noise is unlikely to be dissimilar in character to previous arrangements of the former, consented retail uses. To ensure that deliveries to, and waste collections from, the premises do not take place at times likely to cause noise disturbance, a condition restricting deliveries has been recommended by the EHO and duly attached.

Impacts of amplified music and entertainment

The premises would be operated by JD Wetherspoons, which does not play music within the majority of their premises. The impact of music is therefore not considered in the submitted noise report. However, an alternative operator may choose to play music and to ensure that suitable noise assessments and mitigation take place should this occur, the EHO has suggested a condition requiring submission of details of an additional noise report and mitigation measures which has been duly attached.

Cooking Odours

The cooking of food within the premises could result in unpleasant odours reaching neighbouring receptors and a mitigation scheme has been submitted and considered acceptable by the EHO. A condition has been attached to ensure that works are carried out in compliance with that scheme.

Demolition and construction impacts

The EHO has recommended a Construction Management Plan be submitted prior to commencement and this condition has been duly attached.

Safety Concerns

Members of the public have raised concerns regarding safety in the area, as a result of the proposal. The premises would require a license to operate, which would be dealt with by The Licensing Act, and anti-social behaviour would be dealt with under policing legislation. As discussed above, town centres are considered

to be a suitable location for restaurants and drinking establishments and there are no site-specific factors which Officers consider would result in safety being a greater concern here than at other town centre locations throughout the District.

Parking and Highway Safety

Policy TR1 (Access and Choice) of the Warwick District Local Plan states that development will only be permitted if it provides safe, suitable and attractive access routes for pedestrians, cyclists and vehicles. Amongst other things, development proposals are expected to not be detrimental to highways safety.

Policy TR3 (Parking) of the Warwick District Local Plan states that new development will only be permitted that makes adequate provision for parking. The Council's adopted Parking Standards SPD provides additional guidance in this regard.

The application site is within the town centre and in accordance with the adopted Parking Standards SPD off street parking within the application site is not necessary. Whilst the Town Council have requested that a parking Survey be carried out, it is not considered necessary considering the sustainable town centre location and the lack of a requirement for parking within such a location.

The car park site to the rear is private and the Highways Authority have raised no objection to the proposal. Whilst objections have been received stating that pedestrian access onto the car park would be dangerous, a footpath runs along the rear edge of the site which would allow pedestrians to leave via the back gate safely.

In terms of servicing, members of the Town Council have raised concerns regarding delivery vehicles blocking the road. Deliveries and refuse collections would take place from the rear, as would be the case should it continue to be used for its established retail use. Whilst it is noted that the existing servicing area would be used for the pub garden, that area would not have been utilised historically for large deliveries as larger delivery vehicles would not have been able to access the servicing area due to its restricted size. The road adjacent to the rear of the site is sufficiently wide to allow a large delivery vehicle to stop alongside during delivery periods and the Highways Authority have raised no objection. The proposal is therefore considered to comply with the above referenced policies.

Ecology and Biodiversity

The National Planning Policy Framework (NPPF) places significant weight on the protection and enhancement of biodiversity and geodiversity, stating at Paragraph 180(a): *If significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts) adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.*

Policy NE2 of the Warwick District Local Plan 2011-2029 states that development will not be permitted that will destroy or adversely affect protected, rare, endangered or priority species unless it can be demonstrated that the benefits of

the development clearly outweigh the nature conservation value or scientific interest of the site and its contribution to wider biodiversity objectives and connectivity.

Policy NE3 of the Local Plan (Biodiversity) states that development proposals will be expected to protect, enhance and/ or restore habitat biodiversity and where this is not possible, mitigation or compensatory measures should be identified accordingly.

The County Ecologist was consulted as part of the assessment and recommended that the works should be carried out sensitively. A note relating to bats roosts and bird nests has been attached as requested.

Other Matters

A representative for the occupiers of the flats above 16 The Square (directly adjacent to the north), whilst not objecting, has raised concern regarding the potential for anti-social behaviour in the area next to the boundary fence, which forms a boundary to their access route for vehicles and pedestrians.

The Designing Out Crime Officer at Warwickshire Police was consulted regarding the proposal and raised no objection. However, they did recommend that the existing gate, which provides access to those flats, should be relocated closer to the car park to prevent anti-social behaviour, such as people urinating, in the area and increase natural surveillance of the gate. This has been raised with the agent who has passed the comments onto the applicant to find a solution which accords with the observation of Warwickshire Police. However, as only part of the path is within the ownership of the applicant, it is not possible to include a condition requiring that the gate is repositioned. It was however noted during a site visit that that section of land is already lit by a security light and covered by CCTV cameras owned by the occupiers of that property, which indicates that occupiers have taken steps to increase surveillance and security.

The Town Council has expressed concern regarding pedestrian safety due to increased usage of adjacent alleyways and suggested a contribution for appropriate additional lighting. The adjacent alleyways are outside of the site so a condition cannot be included to provide suitable lighting. In addition, the alleyways are utilised by the general public to connect from the car park to the shops and the lighting of them is not considered to pass the tests for planning obligations of being directly related to the development or being necessary to make the development acceptable in planning terms. Furthermore, it is considered that greater footfall created through the alleyways would provide additional surveillance along them, improving safety, not reducing it.

The Designing Out Crime Officer for Warwickshire Police has also recommended a series of security measures to be incorporated into the design of the distribution centres to reduce the likelihood of the business becoming a victim of crime. These include measures such as laminated safety glazing, door sets and CCTV and this has been included within an informative.

Their recommendation also included a shutter, grille or combination thereof across main pedestrian access points. However, the Council's guidance leaflet for Increased Security for Retail Premises states that roller shutters, particularly those of a solid nature, have the most detrimental effect on the appearance of the shop of all forms of security on most types of retail premises whether in a High Street location, suburban centre or isolated retail unit. The guidance recommends an integrated approach to the design of shopfronts and security measures; stall rises of at least 600mm in height and glazing comprising small panes of glass rather than a single sheet are recommended in the first instance. Open grilles behind the shop front will also be supported where it can be demonstrated that integrated measures would not be sufficient.

Officers would not be supportive of external roller shutters over the external windows and doors unless it can be demonstrated that internal grille shutters, in conjunction with the other security measures, would be inadequate to deter crime and antisocial behaviour.

It is therefore considered reasonable to resist these measures in the first instance whilst alternative options are explored in accordance with the Increased Security for Retail Premises guidance. Comments from the Designing Out Crime Officer have been attached in the form of an amended note.

CONCLUSION

The development is located within Kenilworth Town Centre where restaurant and drinking establishment uses are considered acceptable in principle. The proposal has been assessed and is considered acceptable having regard to the impact on the character and amenity of the local area, the impact on the amenity of neighbours, highway safety, ecological matters and all other matters. It is considered that site specific matters can be adequately controlled by condition.

For the above reasons, Officers recommend that the application be granted, subject to conditions.

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 drawings and documents and specification contained therein:
 - 7591-00, received on 28/09/2022;
 - 7591-001 Rev B, received on 28/09/2022;
 - 7591-002 Rev B, received on 28/09/2022;
 - 7591-003 Rev B, received on 28/09/2022;
 - 7591-004 Rev G, received on 05/12/2022;
 - 7591-005 Rev D, received on 05/12/2022;
 - 7591-006, received on 28/09/2022;

-7591-007, received on 28/09/2022;
-7591-008 Rev B, received on 28/09/2022;
-7591-009 Rev C, received on 06/03/2023;
-7591-01, received on 28/09/2022;
-7591-014, received on 28/09/2022;
-7591-015, received on 28/09/2022; and
-7591-017, received on 03/03/2023.

- Document titled, 'JD Wetherspoon 18-24 The Square, Kenilworth. Appendix 3: Risk Assessment for Odour', received on 28/09/2022
- Planning Statement, reference n1963, dated September 2022, received on 28/09/2022
- Document titled, 'Kitchen extract odour control system at JD Wetherspoon 18-24 The Square, Kenilworth, CV8 1EB' by APL Mechanical Services, received on 05/12/2022
- Planning Noise Impact Statement by Spectrum Acoustic Consultants, reference RK3443/22263/Rev2, dated 02/12/2022, received on 05/12/2022

Reason: For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.

3 No works of demolition or construction shall be undertaken unless and until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include details of any temporary measures required to manage traffic during construction, plans and details for the turning and unloading and loading of vehicles during construction, dust suppression, noise and vibration, demolition or clearance works, site working hours and delivery times, restrictions on burning and details of all temporary contractors' buildings, plant and storage of materials associated with the development process. All works of demolition or construction shall be carried out in strict accordance with the approved construction management plan. **Reason:** In the interests of highway safety and the amenities of the occupiers of nearby properties, the free flow of traffic and the visual amenities of the locality in accordance with Policies BE3, TR1 and NE5 of the Warwick District Local Plan 2011-2029.

4 No development shall be carried out above slab level unless and until samples of the external facing materials to be used have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details. **Reason:** To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the locality in accordance with Policy BE1 of the Warwick District Local Plan 2011-2029.

5 The opening hours of the premises shall be as follows:

- Sunday to Thursday – 0700 to 2330
- Friday/Saturday – 0700 to 0030

- Christmas Eve/New Year's Eve – 0700 to 0130
- Boxing Day/Sundays before Bank Holidays – 0700 to 0030

Reason: To ensure that the site is not used at a time which would be likely to cause nuisance or disturbance to nearby residents in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.

6 The development hereby permitted shall be carried out strictly in accordance with the mitigation proposals as set out in the 'Planning Noise Impact Assessment: Report RK3443/22263/Rev 2' produced by Spectrum Acoustic Consultants and dated 2nd December 2022, submitted to the local planning authority on 5th December 2022.

Reason: To ensure that the level of noise emanating from the building is confined to levels which would not cause unacceptable disturbance to the detriment of the amenities of the occupiers of nearby properties in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.

7 Noise arising from any plant or equipment (measured as LAeq,5 minutes), when measured (or calculated to) one metre from the façade of any noise sensitive premises, shall not exceed the background noise level (measured as LA90,T). If the noise in question involves sounds containing a distinguishable, discrete, continuous tone (whine, screech, hiss, hum etc) or if there are discrete impulses (bangs, clicks, clatters, thumps etc.) or if the noise is irregular enough to attract attention, 5dB(A) shall be added to the measured level. **Reason:** To ensure that the level of noise emanating from the building is confined to levels which would not cause unacceptable disturbance to the detriment of the amenities of the occupiers of nearby properties in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.

8 No deliveries, waste collections or similar noisy external activities likely to cause nuisance to nearby residents shall take place before 0800 hours or after 2000 hours on Monday to Saturday or before 0900 hours or after 1800 hours on Sundays. **Reason:** To protect the amenities of occupants of nearby properties in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.

9 No live or recorded music (except for background music) or any other form of amplified entertainment shall take place at the premises unless and until:

- a) a noise assessment has been undertaken to assess the impact of entertainment noise on adjoining and nearby residential premises; and
- b) the results of the noise assessment carried out to comply with criteria (a), together with details of any necessary mitigation measures, have been submitted to and approved in writing by the local planning authority.

Upon approval, any mitigation measures required by criteria (b) shall be implemented in full and retained at all times thereafter and shall not be altered in any way without the prior written approval of the local planning authority.

Reason: To ensure that the level of noise emanating from the building is confined to levels which would not cause unacceptable disturbance to the detriment of the amenities of the occupiers of nearby properties in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.

- 10 The development shall be carried out strictly in accordance with the odour mitigation proposals as set out in the 'Kitchen extract odour control system details report: Rev A' produced by APL Mechanical Services, submitted to the local planning authority on 5th December 2022. **Reason:** In the interests of the amenities of the occupiers of nearby properties in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.
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