

**Planning Committee:** 23 May 2006

**Item Number:** 02

**Application No:** W 06 / 0212

**Registration Date:** 02/02/06

**Town/Parish Council:** Leamington Spa

**Expiry Date:** 30/03/06

**Case Officer:** Sarah Laythorpe

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**8-10 Augusta Place, Leamington Spa, CV32 5EL**

Proposed change of use from class D (community centre) to class A3 use.  
(restaurant/cafe) FOR Mr A Hall

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

This application was deferred at Planning Committee on the 3rd May, 2006 for information on the use of upper floors and operational use by the restaurant of the rear yard area. Further information has been requested on these aspects, and will be included in the addendum report for the meeting.

**SUMMARY OF REPRESENTATIONS**

**Town Council:** objects on the following grounds:-

(i) The addition of further A3 use in the Town Centre is strongly opposed on the grounds of over-provision of cafes, restaurants and licensed premises which detrimentally impacts on the retail mix of Leamington Spa.

(ii) Concern is expressed at the visual impact of the extract flue.

**Neighbours:** 3 neighbours have raised objection on the grounds of noise and disturbance, additional parking pressures, area is already well served by restaurants and bars, would not retain the balance of character in the town centre, odours, storage and collection of refuse, rats and vermin.

**CAAF** - 'Concerns were expressed not necessarily at the change of use itself but at the implication on the building. It was felt a flue would be needed at the back which would impact upon the houses on Portland Street and also there was little space for waste disposal and waste storage, fire exits and no details of signage and other impacts on the building by the end user were given. Therefore concerns were expressed at the overall impact of the implication of an A3 use on the Conservation Area.

**Environmental Health:** 'Potential for nuisance to be caused to nearby residents by noise and odour. A number of other premises with A3 use already exist in Augusta Place and therefore these proposals have to be put into this context. It should also be borne in mind that the Council has a 'Hot Spot' policy with regard to premises licensed for the sale of alcohol which relates to this part of the town.

If planning permission were given conditions could be imposed with regard to the installation of odour control/extraction equipment and noise control measures. These would include the need to limit noise levels from equipment

(such as the extraction equipment) and use of the premises, eg emptying of bottle skips, control of amplified music etc.

My opinion is that, despite measures to mitigate against odour nuisance and noise, there will inevitably be a level of emission which cannot be prevented. I would therefore conclude that permission should not be granted for this application.'

### **RELEVANT POLICIES**

- (DW) ENV3 - Development Principles (Warwick District Local Plan 1995)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011 Revised Deposit Version).
- SC7 - Directing Community Facilities (Warwick District Local Plan 1996 - 2011 Revised Deposit Version)

### **PLANNING HISTORY**

W950840 - planning application for the use of the premises (8-10 Augusta Place) as a community centre. Restricted use between hours of 10am and 9pm Monday to Saturday. Restriction on use of rear yard at any time.

W011606 - Variation of Conditions (2) and (3) of W950840 to allow the premises to open on Sundays between 11.30am and 5.30pm and the use of the rear yard between 11am and 7pm Monday to Saturday and 11.30am and 5.30pm Sunday.

### **KEY ISSUES**

#### **The Site and its Location**

The premises as existing were previously used as a community centre but are presently vacant. The premises have been marketed since the July, 2005 and there has been no interest in continuing the existing use.

The site is located within Leamington Spa Town Centre. It is also located within the Conservation Area. The premises back onto residential properties in Portland Street and within Augusta Place there are a range of uses including A3 (The Willoughby, a public house), A2 (offices) and D1 (St. Peter's RC Primary School).

#### **Details of the Development**

The scheme proposes a change of use from community centre to A3 (restaurant). This scheme does not include exact details of the extract flue as the main purpose of the application is to gain a more marketable use for the premises; the applicant, however, has indicated that the existing chimney could be used as a route for any necessary flue.

#### **Assessment**

In terms of Policy, SC7a states that change of use of community facilities that serve local needs will not be permitted unless there are other similar facilities accessible to the local community by means other than the car and the facility is redundant and no other user is willing to acquire and manage it. In this case, the property has been vacant for some months and has been marketed as its current use but with no interest. Evidence has been provided to show that the facility has been actively marketed for a community use for a period of 9 months. It is considered that this period of time is sufficient and it would now be acceptable to consider a change of use from that as a community facility.

With regard to the comments of Environmental Health, given the 'fall back' position that this site could be reoccupied as a community centre, I do not consider that a change of use to restaurant use would be likely to cause such additional nuisance that it would justify a refusal of planning permission. The applicant has proposed the use of the existing chimney as a possible route for any extraction flue and I consider this could be the subject of a planning condition.

With regard to the use of the rear yard then I would suggest that to protect the amenity of nearby residents, its use by members of the public visiting the restaurant should not be permitted at any time.

### **RECOMMENDATION**

GRANT subject to the conditions listed below.

### **CONDITIONS**

- 1 The development hereby permitted must be begun not later than the expiration of three years from the date of this permission.  
**REASON** : To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 The premises shall be used solely for purposes falling within Class A3 of Part A of the Schedule to the Town and Country Planning (Use Classes) Order 1987, (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification and for no other purposes whatsoever.  
**REASON** : For the avoidance of doubt and having regard to the location of the premises within Leamington Spa Town Centre allocated in the Warwick District Local Plan 1995 and the Warwick District Local Plan Revised Deposit Version 1996-2011.
- 3 Details of any air conditioning, ventilation and flue extraction systems including particulars of noise levels shall be submitted to and approved by the Local Planning Authority before any works commence on site. The development shall not be carried out otherwise than in full accordance with such approved details.  
**REASON** : To protect the amenities of surrounding properties, in

accordance with Policy ENV3 of the Warwick District Local Plan.

- 4 The rear yard serving these premises shall not be made available for use by members of the public visiting the A3 (restaurant/cafe) use hereby permitted at any time. **REASON** : To protect the amenity of adjoining residents in accordance with Policy ENV3 of the Warwick District Local Plan 1995).

### **INFORMATIVES**

For the purposes of Article 22 of the Town and Country Planning (General Development Procedure) (England) (Amendment) Order 2003, the following reason(s) for the Council's decision are summarised below:

In the opinion of the District Planning Authority, the development would be in accordance with in the Warwick District Local Plan 1995 and the Warwick District Local Plan Revised Deposit Version 1996-2011 and does not give rise to any harmful effects in terms of noise and odour which would justify a refusal of permission. The proposal is therefore considered to comply with the policies listed.

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