

**Planning Committee:** 06 January 2015

**Item Number: 9**

**Application No:** [W 14 / 1493](#)

**Town/Parish Council:** Warwick

**Registration Date:** 07/10/14

**Case Officer:** Emma Spandley

**Expiry Date:** 06/01/15

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**6 Jury Street, Warwick, CV34 4EW**

Installation of flue extraction equipment FOR Catalan

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This application is being presented to Committee as Warwick District Council is the owner of the property.

**RECOMMENDATION**

Planning Committee are recommended to GRANT planning permission for the development, subject to conditions.

**DETAILS OF THE DEVELOPMENT**

The application proposes to erect a new flue for an existing extraction unit.

**THE SITE AND ITS LOCATION**

The application property is an attractive Grade II Listed Building within the Conservation Area of Warwick; located to the South-West of Jury Street. It is currently being used as a Spanish restaurant.

**PLANNING HISTORY**

W77/0049 - Granted consent for the use of vacant offices as tea rooms

W77/0419 - Granted consent for the display of fascia sign (0.53m x 1.5m) and projecting sign (0.46m x 0.84m)

W89/1400LB - Granted consent for the demolition of kitchen and erection of extension to tearooms and new kitchen

W90/1071LB - Granted consent for the erection of rear kitchen extension

W04/2203 - Granted for internal alterations including revised floor and new stud partition wall

W06/0615LB - Granted for the display of a hanging sign on front of property (Retrospective application)

W07/1482LB - Refused for the retention of retractable awnings to cover patio dining area at rear (Retrospective application)

W09/0399 - Granted the retention and alterations to structure over rear patio (Retrospective application)

W/14/0507/LB - Installation of flue extraction equipment, granted 26th May 2014.

## **RELEVANT POLICIES**

National Planning Policy Framework

### The Current Local Plan

- DP9 - Pollution Control (Warwick District Local Plan 1996 - 2011)
- DAP4 - Protection of Listed Buildings (Warwick District Local Plan 1996 - 2011)
- DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)

### The Emerging Local Plan

- BE3 - Amenity (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)

## **SUMMARY OF REPRESENTATIONS**

**Warwick Town Council** : No objection.

**Environmental Health**: No objection.

**Public Response**: A number of letters and emails have been received from the neighbour concerning potential noise and odour nuisance. The neighbour has also raised concerns that the application has been submitted in the tenants name rather than Warwick District Council, who are the owners of the building.

## **ASSESSMENT**

The main issues relevant to the consideration of this application are as follows:

- The impact on the Listed Building and Conservation Area, and
- The impact on the amenity of the neighbouring property through odour and noise pollution.

### The impact on the Listed Building and Conservation Area

Policy DAP4 of the Local Plan states consent will not be granted to alter or extend Listed Buildings where those works will adversely affect its special architectural or historic interest, integrity or setting.

The proposed replacement flue has been sited so as to minimise the impact on the Listed Building. It is located to the rear in a modern addition adjacent to an existing parapet wall. The flue will be powder coated black. The installation of the new roof light, will be read located on the modern part of the building.

Conservation officers have raised no objections to the design or siting of the proposed flue.

### The impact on the amenity of the neighbouring property through odour and noise pollution

The main objections received centres around the adequacy of the proposed flue and whether it will lead to noise or odour nuisance to the occupiers of No.8 Jury Street.

No.6 Jury Street is an existing restaurant called Catalan, which serves tapas and grilles. The lease holder of No.6 Jury Street has recently been granted planning permission to change the use of No.4 Jury Street and to extend into those premises. There has been some confusion with the objector surrounding the expansion of the restaurant into No.4 Jury Street, with regards to increasing the capacity of the restaurant and covers, which would lead to, in the objectors opinion, an increase in noise and odour from the extraction unit.

For clarification, while the restaurant is expanding into No.4 Jury Street, this is facilitating a larger bar area; better toilet facilities and a more convenient access to the upper floors of No.6 for the existing tenant. The existing kitchen is not being extended. The area where the bar currently is in No.6, will hold an additional 10 covers which is marginal and will not increase the capacity of the existing kitchen.

Therefore, the planning application is based solely on the use of the kitchen as it is today and only the re-routing of the flue from the rear wall where it currently resides to the proposed position, from the roof. The applicant has indicated that the menu will stay the same and the existing cooking equipment will remain the same. There have been no complaints lodged with Environmental Health regarding noise or odour nuisance in relation to the existing system in the past, therefore, the application is solely about the repositioning of an existing flue.

The objector refers to DEFRA guidance regarding extraction and flue equipment for proposed restaurants, and gives a matrix of a likely scenario. However, as stated above, the existing filtration system will remain which has not caused any noise or odour concerns in the past. The new position of the flue is being treated

from factual data and an existing scenario, rather than a hypothetical scenario contained within guidance, not a statutory document.

A noise assessment report has been submitted and Environmental Health are satisfied with the contents of the noise report. Taking into account all of the above, the Environmental Health Officer does not object to the repositioning of the flue, subject to noise conditions which are based on British Standard 4142 "Method for Rating Industrial Noise Affecting Mixed Residential and Industrial Areas.

The objector would like the application to be for a new extraction unit and flue which would take into account a worse case scenario. However, it is unreasonable to require the applicant to remodel the existing kitchen and existing filtration equipment "just in case", in the future, the menus change and / or there is an increase in capacity which potentially could mean that the existing system is not up to the required standard.

#### Other Considerations

The neighbour's concerns regarding the applicant's name has no bearing on the planning considerations of this proposal. The application has been reported to planning committee for this reason.

#### **SUMMARY/CONCLUSION**

Environmental Health are satisfied that the existing extraction equipment has not given rise to any noise or odour complaints. The repositioning of the flue will not give harm to the occupiers of No.8 through increased noise or odour issues to warrant refusal of the application. The application is in accordance with the aforementioned policies.



#### **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 Q3618-14 submitted 7th October 2014 and the noise assessment report dated November 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 Noise arising from ventilation plant at these premises, when measured one metre from the facade of any noise sensitive premises, shall not exceed the background noise level by more than 3dB(A) (measured as LAeq(5 minutes)) [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 protect the amenities of the occupiers of nearby properties in the locality in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011.

- 4 The kitchen mechanical ventilation system shall not be operated between 11pm and 7am. **REASON:** The premises are closely adjoined by residential properties and the local planning authority considers it necessary to strictly control the nature and intensity of use of the premises in the interests of the amenities of the area in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011.
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 WARWICK DISTRICT COUNCIL	Scale: 1:1000 @A4 Drawn By:	Date: 21 December 2014	
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