

**Application No:** W 11 / 0593

**Town/Parish Council:** Kenilworth  
**Case Officer:** Liz Galloway

**Registration Date:** 05/05/11

**Expiry Date:** 30/06/11

01926 456528 planning\_west@warwickdc.gov.uk

**37 Leyes Lane, Kenilworth, CV8 2DE**

Replacement of shop front and new external compressors (air conditioning and cold room). FOR Domino's Pizza Group Ltd

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This application has been requested to be presented to Committee by Councillor Shilton

**SUMMARY OF REPRESENTATIONS**

**Kenilworth Town Council:** Members had no objection in principle but COMMENTED that they were concerned at the potential for noise pollution. They sought assurance from officers that appropriate conditions would be applied to ensure that adequate sound proofing was installed so that nearby residential properties, including for senior citizens were not affected.

**2 public responses:** Objections on grounds of noise, proximity of proposed air conditioning units from dwellings, parking provision and traffic issues

**Councillor Shilton:** Application to be called in.

**Jeremy Wright MP:** I have received correspondence from constituents who live near to the Leyes Lane shops and therefore to the site of this application. They are concerned about additional noise caused by future patrons and from oven extractors or air conditioning units.

In view of the proximity of dwellings to the site, can I assume that this application will be considered in detail by the Planning Committee?

**Environmental Health:** Recommend conditions relating to noise and fume extraction.

**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)

**PLANNING HISTORY**

Granted for 6 shops and parking in 1985

Granted for Change of Use from shop to hot food take-away in 1986

Granted for installation of an extract duct in 1990

Granted for variation of condition (3) of planning permission W85/1242 for the use of the premises for trading on Sundays:- The premises shall only be open to

the public between the hours of 9.00am and 11.00pm Mondays to Fridays, 9.00am to 11.30pm on Saturdays, and 10.00am and 10.00pm on Sundays. Granted for advertisement consent in 2011

## **KEY ISSUES**

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

The application property is a hot food take-away situated within a row of 5 commercial units with residential properties situated to the North and East. The units have a large car park adjacent and lie to the North of Leyes Lane.

### **Details of the Development**

The application seeks to install a new shopfront, an air conditioning unit at ground level, fresh air intake grille above a rear door and a wall mounted cold room compressor unit. All the units will be positioned on the rear elevation of shop, facing the delivery area. The application also includes a replacement extract duct.

### **Assessment**

#### **Visual Impact**

The proposed units will be positioned on the rear wall of the shop and will be partially screened by a wall with fence above, that runs alongside the rear of the shop at a depth of approximately 2 metres. Although this screen will lie to the side of the cold air compressor and air conditioning units, the units will be partially visible within the street scene, however, I do not consider that they will have a serious detrimental visual impact on Leyes Lane. The building also has an existing extract duct which lies on the side roof slope, however, I do not consider that the proposed extract duct will significantly impact on the surrounding area as it will be of a more uncluttered design and will not be increased in height. The proposed new shopfront is also in keeping with the area and therefore I consider the proposal accords with Policy DP1 of the Local Plan.

#### **Opening Hours**

Planning application W85/1242 was granted permission for the premises to be open to the public between the hours of 9.00am and 11.00pm Mondays to Fridays and 9.00am to 11.30pm on Saturdays. In 1995, permission was granted for a variation of condition to use the premises for trading on Sundays between the hours of 10.00am and 10.00pm on Sundays. The permission granted in 1995 still stands and the opening hours originally submitted with this application were incorrect. Amended details of the opening hours have been submitted to fall back in line with the application granted in 1995. Therefore, I am satisfied that this hot food take-away will comply with the opening hours that are currently permitted for this unit and therefore this is not a reason for refusal.

#### **Traffic Issues**

The application building, which has an existing take-away use, lies within a row of shop units which have a car park situated at the front. As this application is not for a change of use and the permission they seek is for air/compressor

conditioning units, I do not consider that the parking or traffic issues will significantly alter if this application is granted, and therefore this is not a reason for refusal.

### **Noise**

Number 39 Leyes Lane has objected on the potential for noise created by the proposed units. This property has two obscure glazed side facing windows and lies opposite the rear of the application building. This property is separated by a delivery service/bin area which is approximately 11 metres wide. Neighbour number 29 Jacox Crescent has also objected to the application proposal on grounds of increased noise and nuisance. This neighbour lies to the North of the site and has a rear garden with lies approximately 35 metres away from the development.

The Environmental Health Department have been consulted regarding the noise and have commented on the application:- "Taking into account source directivity and receiver facade correction calculations I have calculated that the projected noise from these units (combined) should not be intrusive and certainly quieter than the older extraction units as used by the chip shop".

They have recommended noise and fume conditions be attached should permission be granted.

In conclusion, I consider that the proposed air intake grille, air conditioning unit and cold air compressor would not have any detrimental impact on the neighbouring properties or commercial units and therefore accords with DP2 and DP9 of the Local Plan.

### **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 development hereby permitted shall be carried out strictly in accordance with the details shown on the approved drawings C4694-P02, AC1, CR1, and specification contained therein, submitted on 5th May, 2011 unless first agreed otherwise in writing by the District Planning Authority. **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 rating level of the noise emitted from plant located at the site shall not exceed the existing background noise level at any time, when measured one metre from the facade, by more than 3dB(A) (measured as LA<sub>eq</sub> (5 minutes)) at any noise sensitive residential property when measured and corrected in accordance with BS 4142: 1997. 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 amenities of occupiers of other premises in the vicinity are protected.

- 4 Fumes from the hot food preparation areas shall be mechanically extracted and the extraction system shall be provided with de-greasing and de-odourising filters. Details of the extraction equipment (including odour attenuation measures and future maintenance schedules) shall be submitted to and approved in writing by the Local Planning Authority prior to its installation, and the equipment shall be installed in accordance with the approved details prior to the commencement of use for the cooking of food. The equipment shall thereafter be maintained in accordance with the approved details. **REASON:** To ensure that the amenities of occupiers of other premises in the vicinity are protected and in the interests of visual amenities.
- 5 Any current or proposed additional artificial lighting serving the premises shall be installed and maintained in such a manner/condition as not to cause nuisance into nearby premises. **REASON:** To ensure that the amenities of occupiers of other premises in the vicinity are protected.

### **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 development achieves acceptable standards of layout and design and does not give rise to any harmful effects which would justify a refusal of permission. The proposal is therefore considered to comply with the policies listed.

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