

Planning Committee: 16 March 2011

Item Number:

Application No: W 10 / 0967

Town/Parish Council: Warwick

Case Officer: Penny Butler

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Registration Date: 07/09/10

Expiry Date: 02/11/10

**Land rear of 2, 3 and 9, Reardon Court, Woodloes Avenue South,
Woodloes Park, Warwick**

Erection of two storey building containing hairdressers and hot food take-away
with two flats over. FOR Mr's AS & PS Thind

This application is being presented to Committee due to the number of objections received and the need for a legal agreement for open space contributions.

SUMMARY OF REPRESENTATIONS

Warwick Town Council: No objection.

Public response: Eight objections received from business occupiers of the shopping centre and local residents. The area for proposed development is designated as a common service area to facilitate access and delivery for the business premises on Reardon Court. The proposed building is within this service area and the applicant cannot claim outright land ownership of this area. Proposed parking spaces in the currently unpaved and unmarked service area will hinder access for residents parking, emergency vehicles, and large delivery vehicles creating traffic congestion. The property deeds have terms of reference applicable to the proposed plan that need careful scrutiny before any decision is made.

There are already hot food take-away and hairdresser facilities at 2a and 2b Reardon Court so are the proposals to replace or be in addition to these? The applicant has been granted permission to build two flats above 2 and 3 Reardon Court which has not been carried out. The development would be out of character with the area, would not be in line with the existing shops and would obstruct views of the new school.

It will increase anti-social behaviour, noise and disturbance (due to late night opening of the take-away from customers, vehicles and kitchen extract) and loss of privacy for residents of the Reardon Court flats and Woodloes House. Residents above the shops would also suffer loss of light, overshadowing and loss of privacy.

There are concerns regarding the provision of sewage, water, electricity, lighting and drainage of rainwater. As this is not a public highway there is no provision for lighting the area at night, any litter bins near the take-away or any CCTV (which currently covers the front of the existing shops and was recently installed to deter anti-social behaviour). Established trees overhanging the public footpath at the rear of the proposed building would make the area into a dark dank alley susceptible to graffiti and unpleasant for school children travelling to the school adjacent. The development is not conducive to the general residents and present amenity provision surrounding Reardon Court.

The Coventry and Warwickshire Partnership Trust also object (as the operators of Woodloes House) to the close proximity of the proposed building to their residential accommodation. There are no proposals for control or disposal of waste. Potential for odour nuisance from the kitchen and hairdressers and noise nuisance from mechanical ventilation and increased traffic (possibly late evening) which will impact on patients bedrooms in close proximity. Increased traffic will impact on car parking available for patients, visitors and NHS staff.

The Warwick Society: Welcome this proposal to provide local shopping and services.

Waste Policy & Performance: As we currently collect from the rear of the shops at present we don't foresee any issues with access. With regards to storage and collection the developer should take the following issues into consideration however:

The development needs to take into consideration the need for waste storage in appropriate areas both internal and external to the property.

Warwick District Council undertake an edge of property collection service for domestic refuse and recycling and the bins need to be accessible to the collection vehicles. WDC does not offer a Commercial Waste service.

The layout of any storage space should be such that any one container may be removed without the need to move any other container.

The collection vehicles should be able to get within 25m of collection points and the operatives should not have to move two wheeled containers more than 15m between collection point and vehicle.

Storage space for domestic refuse should allow for the storage of wheeled bins and at least two recycling boxes per property.

The developer may be asked to cover the cost of any receptacles provided for the disposal of domestic waste.

With regards to storage space for the commercial premises current waste guidelines state:

Office developments should have 2,600 litres of waste storage space for every 1000m² gross floor space

Retail developments should have 5,000 litres of waste storage space for every 1000m² gross floor space

Restaurants and fast food outlets should have 10,000 litres of waste storage space for every 1000m² gross floor space

WDC Environmental Health: The situation of flats immediately above the proposed take-away gives rise to potential for odour nuisance to occupiers of the proposed flats. There is also potential for noise nuisance to occupiers of the flats from ventilation equipment in the commercial kitchen and the extract flue that serves that equipment. Occupiers of neighbouring premises may be disturbed by noise of the kitchen ventilation system particularly at night. Therefore recommend conditions for a kitchen ventilation system to include details of internal and external noise control, and documentary evidence of its maintenance.

Cultural Services: Please apply the Open Space SPD for an off site capital contribution.

WCC Highways: No objection subject to a condition requiring the prior approval of details for the parking/ loading/unloading of the largest vehicle anticipated on site.

Following on from meetings with the applicant to discuss the Highway Authorities original objection to the proposals, it has been noted that much of the existing parking on the applicants land is not associated with developments under the applicants control ie. the adjacent care home / Woodloes School. While the proposals may therefore reduce the availability of parking to those developments, the Highway Authority agrees that this should not be to the detriment of the applicant and the ability to develop on their own land. The site is in a sustainable location and therefore the proposed parking provisions meet the parking standards as set out by Warwick District Council. Notwithstanding this the Highway Authority still enforces that the applicant cannot construct parking bays on Highway Authority land without permission to do so. While there are some concerns over displacing existing parking, the Highway Authority do not feel that they can sustain their previous objection.

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)
- DP6 - Access (Warwick District Local Plan 1996 - 2011)
- DP8 - Parking (Warwick District Local Plan 1996 - 2011)
- DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)
- SC13 - Open Space and Recreation Improvements (Warwick District Local Plan 1996 - 2011)
- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Open Space (Supplementary Planning Document - June 2009)
- Vehicle Parking Standards (Supplementary Planning Document)
- UAP3 - Directing New Retail Development (Warwick District Local Plan 1996 - 2011)

PLANNING HISTORY

Reardon Court was erected following a consent in 1976 for seven shops with six flats over and a first floor hairdressers. Subsequently, a laundrette and take-away were given consent in 1990.

KEY ISSUES

The Site and its Location

The application site is located at the rear of an existing service area for the Reardon Court local shopping centre on the Woodloes Park housing estate. The service area provides vehicular access for deliveries at the rear of the units, commercial bin storage space and private parking for the shops and occupiers of the flats above. The whole service yard is currently unmarked and poorly surfaced. The access road leading to the service area is an adopted access owned by the applicant, which leads off the public road serving the front of Reardon Court.

Running north to south across the rear of the service area is a grassed verge within the application site, which is wider at the northern end where there is a small bin store and larger outbuilding. Adjoining the grass verge is a well used public foot path, with a school on the opposite side which is bound by tall metal palisade fencing and a good tree line. Along the northern side of the service area is a tall wooden fence and palisade fencing which fronts another foot path.

On the opposite side of a public foot path along the southern side of the site is Woodloes House, an Elderly Mentally Ill residential care facility, with their own small car park accessed off the road leading to the service yard. Woodloes House is two storeys with windows in an end wall directly overlooking the proposed building. Facing the site is a large feature window at first floor to a lounge area and four full height ground floor windows to a day centre.

Details of the Development

It is proposed to erect a two storey building at the rear of the service yard, behind units 2, 3 and 9 Reardon Court. This is in the south-western corner of the service yard, and the proposed plans show parking spaces being laid out between the new building and the rear of the existing units. This layout would reduce the vehicular gangway between the spaces to 7m. The building would be erected on part of the existing grass verge which separates the service area from the public footpath running along the school boundary, leaving a 1m wide buffer at the rear. The building would provide a hairdressers and take-away at ground floor, with two one-bedroom flats above. An external flue is proposed as part of a kitchen extract system for the take-away on the southern side elevation, and an air source heat pump for each flat are provided on the rear elevation.

The length of the building has been reduced by 3.3m (from 21.3m to 18m) following discussion with the Highway Authority in order to avoid the turning head for the access road.

Assessment

The key issues to consider are the principle of development in retail terms, visual impact on the character of the area, access/parking implications, and impact on neighbouring amenity.

The principle of development

Policy UAP3 restricts new retail development to town centres (where this site is not) unless certain criteria are met. There must be a proven retail need for the proposal, no available, suitable and sequentially preferable sites, it would reduce the need to travel by private car, be genuinely accessible and well served by a choice of means of transport, and the proposal should not have a significant adverse effect on the vitality and viability of town centres, district and local centres nor on the development plan retail strategy.

The proposal duplicates the existing take-away and hairdresser uses to allow them to relocate to the new building, so that the floor area of the existing supermarket can be increased. The supermarket was originally larger than it is currently so the proposal would allow it to return to near its original size. By retaining the existing occupiers the existing need for these facilities would be still be served. Since the proposals are within the existing local centre they are sustainably located, accessible and would reduce vehicle movements by allowing more combined trips. I consider there would be no adverse impact on the vitality and viability of the centre and conclude there would be no conflict with Policy UAP3.

Visual impact

The existing service yard is a somewhat unattractive area that does not contribute positively to the surrounding character. It is viewed directly by residents of Woodloes House, and is passed by pedestrians using the busy footpath between the shops and school. It is also viewed to a lesser extent from

the north where there is another partly screened public footpath. The proposed building fronts onto the service yard and towards the rear of the existing units.

The existing location of the take-away and hairdressers at the side of Reardon Court, does not form part of the prime frontage of Reardon Court where the units front the public car park and pedestrianised area. Visually the proposed building is located in a back land type location, and will appear somewhat out of character with the surroundings. However, Woodloes House does have a frontage onto this area and the existing take-away and hairdresser are accessed off the same side road which is well used by pedestrians. The building will screen part of the service yard from the public footpaths to the west and south which is positive, but would block wider views of the section of footpath behind the building. This would reduce surveillance of this section of the footpath from Woodloes House and the rest of the service yard, but the path is illuminated by street lights and views of the path are already blocked by the smaller outbuildings, and further down the path, by Woodloes House. I consider the visual impact acceptable.

Access/Parking

Access rights for the other units to pass over the land and other legal restrictions on its use, are a matter for the applicant to resolve as these are civil matters dealt with under separate legislation. The service yard is heavily used, although it is suspected that much of the parking is associated with surrounding uses. The proposal will reduce the area of land available for parking and manoeuvring, however, since a 7m wide gangway and the existing turning head will remain, access for large vehicles should not be impeded. The proposal will increase the demand for parking, however, the number of independently accessible parking spaces will remain the same as they will just be moved forward in front of the new building. An additional parking demand of seven spaces would be generated but this is a sustainably sited local centre where car journeys are likely to be less than would be anticipated for other out of town centre sites. Even though the service area is currently heavily parked, albeit partly by developments outside of the applicants control, with no objection from the Highway Authority it would be difficult to justify a refusal on parking need.

Neighbour impact including crime, noise, privacy

The proposed building will bring activity and vehicle movements late at night closer to Woodloes House than the existing take-away, while the proposed kitchen extract will also create noise and possibly odours if not maintained correctly. As the EHO has no objection on odour grounds, providing a condition is imposed requiring approval of a suitable system, I can see no grounds for refusal on this aspect. The opening hours of the existing take-away are limited and it is proposed to impose the same condition on this application, with an evening closing time of 23.30. The nearest bedrooms in Woodloes House do not have windows directly facing the application site, but they are within 20m of the proposed take-away building, and closer to the parking area in front. I do not consider that noise and disturbance would be increased to the extent that the application should be refused, given that there is already a take-away within 45m, and the parking area currently exists. The reduced footprint of the building has moved the side wall of the take-away further away from Woodloes House.

Since the proposal includes the provision of air source heat pumps I consider that Policy DP13 is addressed, although further detailed calculations demonstrating compliance with the policy are required.

RECOMMENDATION

GRANT, subject to the conditions listed below and a Section 106 agreement or unilateral undertaking to provide a contribution of £1832 towards open space enhancement.

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 drawing(s) (No. 21019/4 and 21019/6 received on 6 January 2011), and specification contained therein, 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 development hereby permitted shall not be commenced unless and until a scheme showing how 10% of the predicted energy requirement of this development will be produced on site, or in the locality, from renewable energy resources, has been submitted to and approved in writing by the District Planning Authority. The development shall not be first occupied until all the works within this scheme have been completed and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturers specifications. **REASON** : To ensure that adequate provision is made for the generation of energy from renewable energy resources in accordance with the provisions of Policy DP13 in the Warwick District Local Plan 1996-2011.
- 4 No development shall be carried out on the site which is the subject of this permission, until details of provision for storage of refuse have been submitted to and approved by the District Planning Authority and the development shall not be carried out otherwise than in full accordance with such approved details. **REASON** : To protect the amenities of occupiers of the site and the character and appearance of the locality, in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.
- 5 Samples of all external facing materials to be used for the construction of the development hereby permitted, shall be submitted to and approved by the District Planning Authority before any constructional works are commenced. Development shall be carried out in accordance with the approved details. **REASON** : To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy DP1 of the Warwick District Local Plan 1996-2011.
- 6 The development shall not be commenced until space has been provided within the site for the parking/ loading/unloading of the largest vehicle anticipated on site in accordance with details to be approved in writing by the Local Planning

Authority. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy DP6 of the Warwick District Local Plan 1996-2011.

- 7 To ensure that unacceptable cooking odours outside the premises are minimized, a comprehensive kitchen ventilation system shall be installed in the kitchen of the takeaway food shop to capture and treat fumes to ensure that as far as reasonably practicable no nuisance is caused from cooking odours. Notwithstanding the details shown on the approved drawings, prior to works commencing, details of the kitchen extraction system shall be submitted to, and approved in writing, by the Local Planning Authority. The scheme must include details of the actions taken to exclude the potential for noise from the ventilation system to affect the flats by air and/or structural transmission from the installation within the shop and/or via any external components or extract ducting, be it internal or external. The development shall not be carried out otherwise than in full accordance with such approved details. The odour control systems shall be adequately maintained at all times to ensure continued satisfactory operation. Documentary evidence including service contracts, receipts, invoices, etc, must be kept on the premises and made available to authorised officers of the local planning authority to facilitate compliance with this condition.
REASON : To protect the amenities of surrounding properties, in accordance with Policy DP9 of the Warwick District Local Plan 1996-2011.
- 8 The take-away premises hereby approved shall only be open to the public between the hours of 09.00 and 23.30 Monday to Saturday and at no time on Sundays. **REASON**: To protect the amenities of surrounding properties, in accordance with Policy DP2 of the Warwick District Local Plan 1996-2011.

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 achieves acceptable standards of layout and design and does not give rise to any harmful effects in terms of noise, disturbance, odour or retail use which would justify a refusal of permission. The proposal is therefore considered to comply with the policies listed.
