

Planning Committee: 08 November 2011
Application No: ENF 064/10/11

Item Number: 11

Case Officer: Dave Fry
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Caffe Nero, 42 Parade, Leamington Spa, CV32 4DN

Change of Use of Building from Use Class A1(retail) to mixed use falling within
Use Classes A1/A3 (coffee shop)

Property Owner(s) Caffe Nero

This report is brought before Committee to request that enforcement action be authorised.

BACKGROUND

In March, 2011 it was brought to the attention of the Enforcement section that the above property, formerly a ladieswear shop operating with Use Class A1 (retail) under the trade name 'Monsoon', had been converted to a coffee shop operated by Caffe Nero.

Whilst permissions had been sought and approved for the installation of external signing, awning and internal refurbishment of the property for the new occupiers, no permission had been sought for the change of use. Further internal vinyl window graphics have been installed materially different to that approved under these permissions.

Contact was made with Caffe Nero and an application for a change of use of the ground and first floor from Use Class A1 to Use Class A1/A3 coffee shop, was submitted to this Authority on 21st April, 2011. This application as submitted was invalid and despite contact with the agents for the company, remained so until 25th August, 2011 when in accordance with usual practice, it was deemed withdrawn.

RELEVANT POLICIES

DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
DP8 - Parking (Warwick District Local Plan 1996 - 2011)
DAP4 - Protection of Listed Buildings (Warwick District Local Plan 1996 - 2011)
DAP5 - Changes of Use of Listed Buildings (Warwick District Local Plan 1996 - 2011)
DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)
TCP2 - Directing Retail Development (Warwick District Local Plan 1996 - 2011)

PLANNING HISTORY

There have been a number of previous planning applications relating to the premises in question, the most recent of which include:

- W/10/1563: Display of halo and internally illuminated individual letters to read 'CAFFE NERO' on Warwick Street and Parade frontages, with installation of new retractable awning with advertisement to replace existing retractable awning on Warwick Street frontage;
- W/10/1562LB: Display of halo and internally illuminated individual letters to read 'CAFFE NERO' on Warwick Street and Parade frontages, application of frosted graphics vinyl film to base of windows fronting Parade and Warwick Street and fanlight above entrance door, internal refurbishment and shop fit, installation of new retractable awning with advertisement to replace existing retractable awning on Warwick Street frontage, both granted approval on 10th March, 2011.

KEY ISSUES

The Site and its Location

The property is located on the western side of Parade at its junction with Warwick Street in Leamington Town Centre and occupies a corner plot, with a frontage on Parade and Warwick Street. It is a Grade II Listed Building and is located within the Leamington Spa Conservation Area.

Assessment

Prior to 27th February, 2011 when the property was occupied by Caffè Nero, it remained empty from 10th September, 2010 when it was vacated by Monsoon, a ladieswear shop, with use class A1 retail. Caffè Nero operate as a use class A1/A3 coffee shop, the predominant use being A3 coffee shop, customers taking refreshments on the premises, with seating and tables provided for their use throughout the property. There is a smaller element of retail sale through a hot drink and cold food takeaway service.

The unit occupies retail frontage on two elevations; Parade between Warwick Street and Clarendon Avenue and Warwick Street between Parade and Tavistock Street. Both of these frontages are designated as Primary Retail Frontage and as such the change of use of this property would be assessed according to policy TCP4. This policy restricts changes to non-A1 retail frontage exceeding 25% or would create or contribute to, a non-A1 frontage of more than 16 metres in length.

Along this section of Parade the total frontage length is 165.5 metres. With the inclusion of the Caffè Nero frontage of 6 metres, a total of 47 metres would be within non A1 usage. This would amount to 28% of the total frontage, breaching the policy limit of 25%.

The total length of the Warwick Street frontage is 58 metres. With the inclusion of the Caffè Nero frontage of 19 metres, a total of 29 metres would be within non A1 usage. This would amount to 50% of the total frontage, again breaching the policy limit of 25% and also creating a continuous non A1 frontage of more than 16 metres.

The unauthorised window graphics installed on the Warwick Street frontage cover the whole of one large window from ground level to ceiling height and creates an impression of a solid wall, impacting on the general appearance of the Listed Building and creating an adverse impact on the Conservation Area at this point.

Justification for enforcement action

Extensive contact has been made with the agent for the occupiers of the site and the situation fully explained but the matter has not been resolved. The service of Enforcement Notices is now considered to be the only option available to rectify this breach.

RECOMMENDATION

That Officers be authorised to take appropriate enforcement action directed at the cessation of the unauthorised use of the property and the removal of the unauthorised vinyl window graphics, with compliance periods of 6 months for the former and 1 month for the latter.
