

Planning Committee: 29 March 2022

Item Number: 6

Application No: [W 21 / 0763](#)

Town/Parish Council: Warwick
Case Officer: Jonathan Gentry

Registration Date: 21/04/21
Expiry Date: 16/06/21

01926 456541 jonathan.gentry@warwickdc.gov.uk

Zetland Arms, 11 Church Street, Warwick, CV34 4AB

Change of use from Public House (Sui Generis) to 1no. dwelling house (Use Class C3) FOR Punch Partnerships (PML) Limited

This application is being presented to Planning Committee due to the number of objections received.

RECOMMENDATION

Members are recommended to grant permission, subject to the conditions listed at the end of this report.

DETAILS OF THE DEVELOPMENT

The application seeks planning permission for the change of use from a Public House (Sui Generis) to a dwellinghouse (Use Class C3). The proposed change of use is to be facilitated by a range of internal works and reconfigurations to make the building suitable for private habitation. A separate application for Listed Building Consent (ref W/21/0764/LB) was granted on 18 March 2022 under delegated powers.

THE SITE AND ITS LOCATION

The application site relates to a Grade II Listed Public House located within the mixed-use area of Warwick Town Centre. The site is positioned on the west side of Church Street, bound on either side by business and residential uses. Listed in 1973, the Historic England listing reference describes the site as early to mid C19. Additional information noted comprises a red brick low pitched Welsh slate roof with wide bracketed cornice and three sashes with glazing bars, rusticated heads and keystones. The site is situated within the Warwick Conservation Area and lies within the setting of a number of other Listed Buildings, including the Church of St Mary some 50m to the north.

PLANNING HISTORY

There is a detailed history of Listed Building Consents for various alterations to the building, but none which are directly relevant to the consideration of this application.

RELEVANT POLICIES

- National Planning Policy Framework

- Warwick District Local Plan 2011-2029
- H1 - Directing New Housing
- BE1 - Layout and Design
- BE3 - Amenity
- TR3 - Parking
- HS8 - Protecting Community Facilities
- TC11 - Warwick Town Centre Mixed Use Area
- FW3 - Water Conservation
- HE1 - Protection of Statutory Heritage Assets
- CC1 - Planning for Climate Change Adaptation
- NE1 - Green Infrastructure
- CT3 - Protecting Existing Visitor Accommodation in Town Centre
- Guidance Documents
- Residential Design Guide (Supplementary Planning Document- May 2018)
- Parking Standards (Supplementary Planning Document- June 2018)

SUMMARY OF REPRESENTATIONS

Warwick Town Council - Members raise no objection. Attention drawn to Local Plan Policy TC17, noting this does not apply to the application site, but change of use would be a loss to amenity in the Town Centre area.

WDC Conservation & Design - No objection to proposed scheme in principle, and detailed schedule of internal works. Clarification sought regarding works to windows.

WDC Safer Communities, Health and Community Protection - No objection, subject to condition.

WCC Highways - No objection to scheme following submission of parking survey.

WCC Ecological Services - No objection to scheme following submission of Bat Survey Report. Recommend imposition of conditions in relation to mitigation measures, ecological enhancement, and external lighting. Recommend notes relating to licensing, nesting birds attached to any grant of permission.

Public Response - 17 objections received on the following grounds:

- Proposed change of use would result in the loss of a valuable community asset and meeting place.
- Development would result in a loss to local retail trade and tourists visiting Warwick.
- The building is situated in a unique location, is of historic interest, and is distinct from other pubs in the Town.
- The proposed works would result in the loss of a unique large garden area with views of the nearby St Mary's Church.
- The site is not suitable for residential use due to lack of parking.
- The site has not been marketed as a business for 12 months.
- Paragraph 92/93 of the NPPF states that Community Facilities should be preserved.

KEY ISSUES

Principle of Development

In determining the principle of development at this site, both the loss of the existing use as a Public House/ visitor accommodation and the creation of a proposed dwellinghouse are required to be considered.

Loss of Public House/ Visitor accommodation

Paragraph 93 of the NPPF states that to provide the social, recreational and cultural facilities and services the communities need, planning policies and decisions should plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments.

Local Plan Policy HS8 states that the redevelopment or change of use of community facilities that serve local needs will only be permitted where it can be demonstrated that:

- a) There are similar facilities accessible to the local community by means other than the car, and either:
- b) The facility is redundant and no other user is willing to acquire and manage it, or;
- c) There is an assessment demonstrating a lack of need for the facility within the local community.

The supporting text to Policy HS8 states for the purposes of these policies, reference to community facilities includes a wide range of uses within Class D1, including places of worship, dental/medical surgeries, halls and educational facilities. However, it adds that other uses in addition to Class D1 such as Public Houses will be considered community facilities where there is no alternative provision within the community.

The application site is located within Warwick town centre which benefits from a number of Public Houses. As per submitted supporting information, seven other Public Houses or comparable facilities lie within 300 metres of the Zetland Arms, increasing to sixteen within 700 metres. While the loss of any community facility of this type is regrettable, particularly for patrons within the immediate locality, given that there are similar facilities accessible to the local community by means other than the car, the proposal is considered to comply with Policy HS8.

It should also be noted that the applicant has put forward a clear rationale for the change of use of the existing pub to a dwelling owing to the business no longer being viable. Economic constraints exacerbated by the Covid 19 pandemic have been highlighted as a key contributor to this position. In addition, the subsequent completion of a Fire Risk Assessment (FRA) has effectively limited the capacity of the Public House to 60, as opposed to the previously adopted figure of 100 patrons. This additional loss of potential income has further limited the viability of the commercial operation. While solutions to overcome the recommendations of

the FRA have been explored, including the formation of additional access routes into and out of the site, none have been successfully pursued as a result of external barriers.

Alongside the aforementioned matters, the submitted details highlight a range of renovation and restoration works required at the site, totalling approximately £219,000, a responsibility of the lease holder operating the site. Therefore, in addition to a calculated annual income loss against rental costs, a significant additional cost unlikely to be viable for potential tenants and commercially unjustified by the operator lies against the site. The applicant has set out clearly the reasons that have rendered the use unviable and those other options have been explored to retain the business.

Policy CT3 of the Local Plan seeks to protect existing visitor accommodation within town centre areas. While consultation response has highlighted the potential loss of visitor accommodation in the upper floors of the property, the agent has submitted additional evidence supported by statutory declarations from previous tenants to assert that the site has not operated as a hotel or comparable use previously, and the proposed change of use would not result in any loss of existing visitor accommodation. Reviewing the available information, Officers agree with this position. This policy is therefore not considered relevant to the assessment of this scheme.

Proposed residential development

The proposal seeks a change of use to a single dwelling. Local Plan Policy H1 directs new residential development to the urban areas and the application site is located within the urban area of Warwick. The site is also located within the defined mixed-use area of Warwick town centre. The Warwick District Local Plan also recognises the importance of the residential role of town centres. In principle therefore the proposed residential use is acceptable in this location subject, to compliance with other Local Plan policies.

Design and Impact on the Listed Building and Conservation Area

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, *"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."*

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty when exercising planning functions to pay special attention to the desirability of preserving or enhancing the character of a Conservation Area.

Paragraph 199 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 202 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage assets, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Policy HE1 of the Warwick District Local Plan states that development will not be permitted if it would lead to substantial harm to or total loss of the significance of a designated heritage asset, unless it is demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss, or if criteria listed within the policy have been satisfied. Where development would lead to less than substantial harm to the significance of a designated heritage asset, this harm will be weighed against the public benefits of the proposal, including securing its optimum viable use. The adopted Residential Design Guide SPD also sets out design principles to which development proposals of this type within Conservation Areas will be expected to comply.

As stated above, Listed Building Consent has been granted for the internal alterations required to facilitate the proposed change of use to a dwellinghouse.

Considering the submitted business justification and the outlined restoration works, Officers acknowledge that the scheme to convert the property to residential use would effectively secure the optimum viable use and future of the Listed Building as a functional space, as opposed to the existing operation. While the proposed development would significantly change the internal character of the building, no harm to the core historic form or layout of the building has been identified. In addition, the works generally seek to preserve remaining elements of historic fabric and are thus considered to avoid harm to the special historic and architectural character of the site.

In addition, noting that no notable external works are proposed, the development is considered to result in no material harm to the wider Conservation Area and setting of the other nearby listed buildings.

As a result, the proposal is considered to lie in accordance with the aforementioned policy considerations.

Impact of the proposal on the living conditions of neighbouring occupiers and whether the proposal would provide adequate living conditions for future occupiers

Policy BE3 of the Warwick District Local Plan seeks to ensure development proposals do not result in an adverse impact on the amenity of neighbouring residential dwellings or significantly impact the amenity of existing and future occupiers of the development site. This is also reflected in the Residential Design Guide SPD. The requirements for compliance with private amenity space and separation distance standards are also outlined within the Residential Design Guide SPD.

Neighbouring Occupiers

The proposal does not propose any extensions to the property, nor the creation of any new windows facing neighbouring dwellings. In terms of privacy and outlook, an adequate distance separation from neighbouring sites is achieved to both the front and rear elevations of the property, at approximately 30 and 17 metres respectively. This accords with WDC Residential Design Guide SPD specification for 22 metre separation to the rear and a reduced level of 15 metres across public streets. The development is therefore considered acceptable in this regard. As a result, the scheme is not considered to result in any material amenity implications

in terms of loss of light, loss of outlook or loss of privacy for neighbouring dwellings/sites. No additional noise or other disturbance as a result of the proposed residential use is identified above the previous commercial use of the site as a Public House.

Future Occupiers

Internal works to the building would result in the re-purposing of many of the buildings internal spaces for residential use. With this in mind, all habitable spaces are assessed by Officers to present appropriate provision of natural light and outlook for future occupiers.

Owing to the large beer-garden outdoor area to the rear of the property, the proposed residential conversion would benefit from a generous private outdoor amenity space of approximately 300sq m. This would lie well in excess of the 60sq m guideline figure outlined in the WDC Residential Design Guide SPD for outdoor amenity space. The site would therefore provide appropriate amenity standards for occupiers in this regard.

In terms of privacy and outlook, an adequate distance separation from neighbouring sites is achieved to both the front and rear elevations of the property as explained above.

As the proposed scheme would establish a residential use throughout the building, ensuring the structure provides adequate noise insulation for occupiers forms a material consideration to amenity assessment.

A Noise Assessment report was submitted to support the application following initial recommendation of the consultee Environmental Health Officer. Updated consultation comments were then issued in response to the submitted report, noting that 'this report has measured existing sound levels at the front and rear facades of the existing premises to establish whether any specific noise mitigation measures are required to achieve published internal noise guidelines (BS8233:2014 and WHO guidelines for community noise, 1999). The report has identified that the front façade of the property (Church Street) is exposed to road traffic noise that will likely exceed these guidelines when the existing windows are open. The noise levels measured at the rear façade indicate that the indoor and outdoor noise guidelines can be achieved through open windows and without any specific mitigation measures. Section 6.17 of the applicant's noise report indicates that a sound reduction performance of between 17dB and 24dB could be achieved for open windows on the Church Street (front) façade through an appropriate scheme of mitigation. This sound reduction performance is presumably based on Table B-5 of the AVO guidance (V.1.1, 2020) for attenuated or plenum windows which has been reproduced in Section 14 of the applicant's noise report. The AVO guidance indicates that this sound reduction performance can be achieved by dual windows with a spacing of approximately 200mm and absorptive linings to the cavity reveals (or a similar configuration).'

The agent has outlined that a 100mm dual window spacing will be incorporated between existing and proposed secondary glazing to the Church Street (traffic facing) façade. Noting that while AVO guidance suggests that the spacing should

be 200mm if it is to achieve the necessary sound reduction, the EH Officer confirmed that other configurations are possible if appropriately implemented. A condition that requires submission of further information to demonstrate that a similar sound reduction performance could be achieved has therefore been suggested. Such a measure is considered reasonable and necessary by Officers to achieve appropriate amenity standards from a noise perspective.

Subject to conditions, the proposal would comply with Policy BE3 of the Local Plan.

Parking and Highway Safety

Policy TR3 of the Warwick Local Plan seeks to ensure parking provision associated with development proposals is reflective of the local area and is in accordance with the Parking Standards SPD.

Owing to its town centre position, the Public House does not benefit from an off-street parking area. Given its location, parking provision in the area is largely subject to permits controlled through the Resident Parking Zone. However, the site is positioned in a sustainable location, within the town centre area and within access of amenities and transport links. Notwithstanding these considerations, the likely potential of car ownership and associated parking requirement for future occupiers must be considered. A Parking Survey was therefore requested due to an increase in parking demand as a result of the development.

The agent has provided three statutory declarations from previous tenants of the site, outlining that the upper floors of the property were not available to let in association with the Public House. In addition, information was highlighted regarding the private residential use of these areas. A Parking Survey was also undertaken in accordance with the Council's outlined methodology and submitted on the 5th November 2021, concluding that there is sufficient capacity available to accommodate the proposed dwelling. Following re-consultation, WCC Highways provided an updated response of no objection to the proposed works.

In view of this assessment, the proposed scheme is considered to appropriately accord with Local Plan Policy TR3.

Ecology

Policy NE2 of the Local Plan seeks to protect designated biodiversity assets and protected species, ensuring they are not adversely impacted by development proposals.

The consultee County Ecologist commented on the initial application submission, recommending that a Bat Roost Assessment was carried out prior to determination in order to establish the potential ecological implications of the proposed works. A Bat Survey Report was subsequently issued in December 2021, which included consideration of other species potential impacted by the works. The survey identified the presence of a bat roost within the site, which would be impacted by proposed internal restoration works. The report proceeded to recommend a selection of mitigation measures to facilitate the works, which were agreed in principle by the County Ecologist upon re-consultation.

In light of the conclusions and recommendations of the submitted report, the Ecologist recommends the imposition of 3 pre-commencement conditions to secure appropriate bat mitigation measures, ecological enhancements through installation of bird and bat boxes, and external lighting details respectively. This are considered necessary to ensure the scheme would not adversely impact the identified ecological factors, including the bat roost within the building.

Finally, a selection of advisory notes was recommended to outline responsibilities of the applicant in terms of licensing, disturbance to birds, and an invasive plant species identified. Officers view such notes are appropriate to outline the relevant responsibilities of the applicant in this instance.

In view of this, the development is considered to lie in accordance with Policy NE2 of the Local Plan subject to application of the aforementioned recommended pre-commencement conditions.

Climate Change

Local Plan Policy CC1 states that all development is required to be designed to be resilient to, and adapt to the future impacts of, climate change through the inclusion adaptation measures where appropriate.

In the case of this site, the fact that the building exists and moreover the unique nature of the existing Listed Building limits the scope of potential measures that may be implemented without resulting in harm to the historic characteristics of the site.

Notwithstanding this, proposed restoration works to the fabric of the building, alongside the installation of secondary glazing will notably enhance the thermal characteristics and insulation of the site in a sensitive and appropriate manner. In addition, a condition to ensure compliance with Local Plan Policy FW3 with regards to water efficiency will be applied to any grant of permission.

Waste

Waste and recycling storage are to be appropriately accommodated within the site boundaries.

SUMMARY/CONCLUSION

For the reasons outlined above, Members are recommended to grant permission for the proposed works, subject to conditions.

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 '20.92_00.00 A' submitted on 21st April 2021, approved drawings

'20.92_10.06 A' submitted on 5th November 2021, '20.92_10.02 C', '20.92_10.03 D' submitted on 9th February 2022, and specification contained therein. **REASON:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029

3 The development hereby permitted shall not commence until a detailed schedule of bat mitigation measures (to include timing of works, replacement roost details, monitoring and further survey if deemed necessary) has been completed in consultation with a suitably qualified bat worker and submitted to and approved in writing by the District Planning Authority. Such approved mitigation measures shall thereafter be implemented in full. **REASON:** To ensure that protected species are not harmed by the development in accordance with Policy NE2 of the Warwick District Local Plan 2011-2029.

4 No development shall commence until an Ecological Enhancement Scheme has been submitted and approved in writing by the Local Planning Authority. In discharging this condition, the LPA expect to see details of biodiversity enhancement features including bat and bird boxes including at least two swift nest boxes to be installed on the building. The works and ecological enhancement scheme shall thereafter be carried out in accordance with the approved details. **REASON:** In accordance with NPPF, ODPM Circular 2005/06 and Policy NE2 of the Warwick District Local Plan 2011-2029.

5 The development hereby permitted shall not commence until details of all external light fittings and external light columns have been submitted to and approved by the Local Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details. In discharging this condition, the Local Planning Authority expects lighting to be restricted in the roost location, along the site boundaries; and to be kept to a minimum at night across the whole site in order to minimise impact on emerging and foraging bats. This could be achieved in the following ways:

- Lighting should be directed away from vegetated areas and the roost
- Lighting should be shielded to avoid spillage onto vegetated areas
- The brightness of lights should be as low as legally possible;
- Lighting should be timed to provide some dark periods.
- Connections to areas important for foraging should contain unlit stretches.

REASON: In accordance with NPPF, ODPM Circular 2005/06 and Policy NE2 of the Warwick District Local Plan 2011-2029.

6 The development hereby permitted shall not be occupied unless and until additional details of sound proofing that demonstrates an appropriate sound reduction performance in accordance with the submitted Noise Assessment Report prepared by Airtight & Noisecheck Limited (Ref. 18792, dated 7th October 2021) have been submitted to and approved in writing by the Local Planning Authority, and the sound proofing

measures have been completed in full accordance with the approved details. **REASON:** To ensure that future occupants do not experience unacceptable levels of noise, in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.

- 7 The development hereby permitted shall not be occupied unless and until a scheme showing how a water efficiency standard of 110 litres per person per day based on an assumed occupancy rate of 2.4 people per household (or higher where appropriate) will be achieved has been submitted to and approved in writing by the Local Planning Authority. No dwelling/ unit shall be first occupied until the works within the approved scheme have been completed for that particular dwelling / unit in strict accordance with the approved details and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturer's specifications. **REASON:** To ensure the creation of well-designed and sustainable buildings and to satisfy the requirements of Policy FW3 of the Warwick District Local Plan 2011-2029.