

Planning Committee: 08 November 2011
Application No: ENF 112/15/11

Item Number: 12

Case Officer: Dave Fry
01926 456522 dave.fry@warwickdc.gov.uk

144 Parade, Leamington Spa, CV32 4AG

Change of use
Property Owner(s) R Langston Jones & Co Ltd.

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

BACKGROUND

In April, 2011 it was brought to the attention of the Enforcement Section that the above property, a Grade II Listed Building, formerly a vacant shop operating within Use Class A1(retail), was being converted to use for pawnbroking, cheque cashing, money lending and jewellery purchase operations within Use Class A2 (financial and professional services), under the name Cashbrokers.

Contact was made with the leaseholder Mr King and he was advised that if the property was utilised for this purpose, planning permission would be required for a change to Use Class A2. Despite this advice and extensive correspondence and meetings, the business was opened. Mr King has stated that he will not apply for any change, as he maintains the operation falls within the definition of Use Class A1, retail sales of goods and therefore does not require planning permission.

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)
TCP4 - Primary Retail Frontages (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 relevant of which are:

1. W/11/0572LB: Display of non-illuminated fascia sign and internal alterations, for current occupier Cashbrokers

(not yet determined),

2. W/10/1578: Change of use from Use Class A1(retail) to use Class A4

"Policy TCP4 of the Warwick District Local Plan 1996-2011 states that changes of use from shops (class A1) to restaurants and cafes (Class A3) will be permitted within the Primary Retail Frontages defined on the proposals map unless: (a) more than 25% of the total length of the street frontage is in non A1 use; or (b) the proposal consists of, or would contribute to creating, a continuous non A1 frontage of more than 16 metres.

There are a number of non A1 uses along this part of Parade and in combination with the adjacent Pizza Hut premises would create a continuous non A1 frontage over 16 metres and therefore this would exceed the threshold set out in the Local Plan Policy TCP4.

In my opinion therefore, this proposed change of use would result in a harmful concentration of non A1 uses in this Primary Retail Frontage, which would detract from the vitality and viability of this part of the Town Centre."

3. W/07/1657 Change of use from Use Class A1(retail) to Use Class A2

"Policy TCP4 of the Warwick District Local Plan 1996-2011 states that changes of use from shops (Class A1) to financial and professional services (Class A2) will be permitted within the Primary Retail Frontages defined on the Proposals Map unless: (a) more than 25% of the total length of the street frontage is in non-A1 use; or (b) the proposal consists of, or would contribute to creating, a continuous non-A1 frontage of more than 16 metres.

The application relates to ground floor retail premises situated on the western side of Parade, the principal shopping street in Leamington Town Centre.

There are already a significant number of non-A1 uses in this Primary Retail Frontage. If the application premises were to change to a non-A1 use this would leave only 51% of the frontage in A1 use. Furthermore, in combination with the adjacent Pizza Hut premises, it would create a continuous non-A1 frontage of over 16m. The proposal would therefore exceed the thresholds set out in Policy TCP4 of the Warwick District Local Plan 1996-2011.

In the opinion of the District Planning Authority, the proposed change of use would result in a harmful concentration of non-A1 uses in this Primary Retail Frontage, which would detract from the vitality and viability of this part of the Town Centre. The proposal would therefore be contrary to the objectives of the aforementioned policies."

4. W/06/0818 Change of use from Use Class A1 (retail) to Use Class A2

"Policy (LTC) S3 of the Warwick District Local Plan 1995 designates the western side of Parade as a Primary Retail Frontage, whilst Policy (DW) S5 of the Warwick District Local Plan 1995 states that, within Primary Retail Frontages, change of use from Use Class A1 (Retail) to Use Class A2 (Financial and

Professional Services) will only be permitted where this would not detract from the vitality and character of the frontage and its primary retail role. Policy S5 goes on to state that consideration of such proposals will include assessment of the following factors: pedestrian flows; the proportion of the frontage which is already in non-retail use; the existing grouping of non-retail uses; and the prominence in the street scene of the building which is the subject of the proposal. This Policy is reflected in Policy TCP4 of the Warwick District Local Plan 1996-2011 (Revised Deposit Version) which states that changes of use from shops (Class A1) to financial and professional services (Class A2) will be permitted within the Primary Retail Frontages defined on the Proposals Map unless:

*(a) more than 25% of the total length of the street frontage is in non-A1 use; or
(b) the proposal consists of, or would contribute to creating, a continuous non-A1 frontage of more than 16 metres.*

The application relates to ground floor retail premises situated on the western side of Parade, the principal shopping street in Leamington Town Centre.

There are already a significant number of non-A1 uses in this Primary Retail Frontage. If the application premises were to change to a non-A1 use this would leave only 51% of the frontage in A1 use. Furthermore, in combination with the adjacent Pizza Hut premises, it would create a continuous non-A1 frontage of over 16m. The proposal would therefore exceed the thresholds set out in Policy TCP4 of the Warwick District Local Plan 1996-2011 (Revised Deposit Version).

In the opinion of the District Planning Authority, the proposed change of use would result in a harmful concentration of non-A1 uses in this Primary Retail Frontage, which would detract from the vitality and viability of this part of the Town Centre. The proposal would therefore be contrary to the objectives of the aforementioned policies."

This use has now been established by The Money Shop, 136, Parade, Leamington Spa. The services provided by The Money Shop include: cheque cashing; pay day loans; pawn broking; foreign currency; gold to cash; cash 'til payday; money transfer.

KEY ISSUES

The Site and its Location

The site relates to the ground floor of a 4 storey Grade II Listed Building situated on the western side of Parade, within the Leamington Spa Conservation Area. Parade is the principal shopping street within Leamington Town Centre. The site is within a primary retail frontage. Its last use was as a gift shop (class A1 retail). There is a parking area for 2-4 cars at the rear of the premises.

Assessment

Prior to 1st April, 2011 when the property was occupied by Cashbrokers, it remained empty from 25th August, 2010 when it was vacated by the last occupiers with use class A1 retail.

The Land Use Gazetteer (3rd Ed. Vol. 1) p.303 states that Pawnbrokers fall within Use Class A2 (financial and professional services) but that they can also fall within Use Class A1 where they principally operate for the retail sale of goods to visiting members of the public. Each case must be assessed on its individual merits.

In this particular case the name of the business is Cash Brokers. The tagline for the business is "your friend with some cash". The services provided by the business include: cheque cashing, payday advances, pawn broking, "buy back", "sell us goods", jewellery and gold buying.

Jewellery is re-sold through the shop window to visiting members of the public. However, this only represents a limited number of items, which is reflected by the size of the display area in the shop window. There is no display of items inside the unit.

Non-jewellery items are sold through the Internet and scrap gold is sold onto dealers. Non- jewellery and scrap metal are not sold to visiting members of the public.

Planning permission for change of use from retail (Use Class A1) to financial and professional services (Use Class A2) at 136 Parade was granted on appeal in April 2011. Whilst the proposal was contrary to Policy TCP4, the Inspector considered that the longstanding vacancy of the unit, the prospects of continued vacancy and the impact of this on the function of the primary retail frontage were material considerations.

In this particular case, it was considered that within that context, the benefits of the proposed use on the vitality and viability of the primary retail frontage were sufficient to outweigh the harm arising from non compliance with policy TCP4 and permission was therefore granted.

Given the range of different financial services which are on offer, the very limited display of goods within the unit and the way in which the unit is viewed by passers-by, i.e. the name and accompanying marketing, which lays its emphasis on the non-sales elements of the business, it is considered that the use which is operating at 144 Parade does not fall within Use Class A1(retail) but rather falls within Use Class A2 (financial and professional services). It is therefore also considered that the current use comprises a breach of planning control.

The unit occupies a plot with frontage on Parade between Dormer Place and Regent Street, 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 uses where the proposal would create a total non A1

frontage exceeding 25% or would create or contribute to, a non-A1 frontage of more than 16 metres.

There are a number of non A1 uses along this part of Parade and in combination with the adjacent premises would create a continuous non A1 frontage over 16 metres and therefore this would exceed the threshold set out in the Local Plan Policy TCP4. This includes The Money Shop at 136, Parade.

Along this section of Parade the total length of frontage is 262.5 metres. With the inclusion of the Cashbrokers frontage of 6 metres, a total of 122 metres would be within non A1 usage, and create a continuous non-A1 frontage of 18 metres. This would amount to 46% of the total frontage, breaching the policy limit of 25%. This includes The Money Shop at 136, Parade.

As the property is a Grade II Listed Building, the most appropriate method of securing the upkeep is by full occupation at the appropriate use class for the area. Any changes to that use class may involve internal alterations which may or may not be appropriate in the historic context of the building, hence the non-determination at present of the latest application for such changes by the current occupier.

Justification for enforcement action

Extensive contact has been made with the leaseholder and the company and the situation fully explained but the matter has not been resolved. Whilst vacancy rates of properties within this Primary Retail Frontage remain of concern, it is considered that the addition of a further A2 (financial and professional services) use in close proximity to that at 136 Parade contrary to the requirements of Policy TCP4 would unacceptably impact upon the character, vitality and viability of the area of retail frontage in question.

The service of an Enforcement Notice is now the only appropriate 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 premises with a period of compliance of 6 months.
