

Planning Committee: 09 October 2018

Item Number: 9

Application No: [W 18 / 1284](#)

Town/Parish Council: Cubbington

Case Officer:

Helena Obremski

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Registration Date: 10/08/18

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**Cottage Baker, 52a Queen Street, Cubbington, Leamington Spa, CV32
7NA**

Proposed change of use from A1 retail unit to C3 residential, to provide a single dwelling. FOR Mr. & Mrs. Soden

This application is being presented to Committee as the Parish Council is in support of the application, Councillor Wright has called the application in if it is to be refused and as there have been five letters of support, and it is recommended for refusal.

RECOMMENDATION

Planning Committee are recommended to refuse planning permission for the reason stated in the report.

DETAILS OF THE DEVELOPMENT

The proposal seeks change of use of the existing ground floor A1 retail unit to a one bedroom dwelling. The proposal also includes some fenestration alterations and insertion of new windows and doors to facilitate the change of use.

THE SITE AND ITS LOCATION

The application relates to a two and single storey property, positioned to the south of Queen Street. The property is adjoined to an existing residential dwelling and brewery to the rear of the site and forms part of the Cubbington Local Shopping Centre and Conservation Area.

RELEVANT PLANNING HISTORY

W/16/1547 - Planning permission refused for proposed change of use from shop to two bedroom dwelling.

W/17/0953 - Planning permission refused for proposed change of use from shop to single 2-bed dwelling.

RELEVANT POLICIES

- National Planning Policy Framework
- [The Current Local Plan](#)
- BE1 - Layout and Design (Warwick District Local Plan 2011-2029)

- BE3 - Amenity (Warwick District Local Plan 2011-2029)
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets (Warwick District Local Plan 2011-2029)
- CC2 - Planning for Renewable Energy and Low Carbon Generation (Warwick District Local Plan 2011-2029)
- TR3 - Parking (Warwick District Local Plan - 2011-2029)
- HE1 - Protection of Statutory Heritage Assets (Warwick District Local Plan 2011-2029)
- TC17 - Local Shopping Facilities (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- HE2 - Protection of Conservation Areas (Warwick District Local Plan 2011-2029)
- NE5 - Protection of Natural Resources (Warwick District Local Plan 2011-2029)
- Guidance Documents
- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Parking Standards (Supplementary Planning Document)
- LES - Low Emission Strategy Guidance for Developers (April 2014)

SUMMARY OF REPRESENTATIONS

Cubbington Parish Council: Support, the applicants have repeatedly tried to let out the property over the last 18 months without success. The village already has good provision for community-led activities and meeting places. It would be preferable to see the property as a residential dwelling rather than a redundant sales unit as it impacts the street scene.

Councillor Wright: Support, the loss of this service is regretful but not uncommon as it is the only practical solution; the change of use would protect the building and overall structure from falling into disrepair; it would provide much needed housing for the area.

Councillor Redford: Support, the property has been marketed for a considerable time with no interest. The village is well supplied with local shops and the footfall is not sufficient for further business development. Change of use to a dwelling is welcomed and would not set a precedent.

WCC Highways: No objection.

Waste Management: No objection.

WCC Ecology: No objection, subject to notes in relation to protected species.

Public Responses: 5 Support: the property would be better brought back into use as a residential property, rather than left empty; there is no demand for the retail unit and high demand for accommodation within the village; the plans would not detract from the mixed character within the village centre; the proposed parking reduces any impact on remaining retail properties.

ASSESSMENT

The main issues relevant to the consideration of this application are as follows:

- Principle of the change of use
- The impact on the character and appearance of the area
- The impact on landscape and heritage assets
- The impact on living conditions of nearby dwellings
- Car parking and highway safety
- Waste storage
- Ecological impact
- Health and Wellbeing
- Other matters

Principle of the change of use

The application site falls within a local shopping centre. Local Plan policy TC17 seeks to protect local shopping centres, stating that changes of use from general shops to other A-class uses will not be permitted in such an area unless:

- a) The unit has been vacant for a period of at least one year or evidence can be provided that the unit has been actively marketed on reasonable terms for a shop use for a period of at least nine months without success: or
- b) The proposed use can demonstrate that it will significantly increase pedestrian footfall in the centre, will introduce a new use into the centre which meets a local need, and will not reduce the proportion of shop frontage in the centre below 50%.

Changes of use from A-class uses to all other uses will not be permitted unless the proposal is for a service or facility that can be demonstrated to meet an important unmet local need and which can be satisfactorily controlled by planning condition.

Under application W/16/1547 for a similar description of development, it was concluded that inadequate marketing of the site had been carried out to meet the requirements of the relevant Local Plan policy at the time (which had the same thrust as current Local Plan policy TC17). Under application W/17/0953 it was concluded that adequate marketing had been carried out by that time, however, the application was refused because the proposal still failed to meet all of the requirements of the relevant Local Plan policy as it did not provide a community service or facility.

According to a letter provided by EHB, active marketing of the property has been continuous since November 2016. The Planning Statement confirms that the unit has been vacant since July 2014. There has been some interest in the unit, however many have withdrawn their interest once they were made aware that the site is within Cubbington (rather than Leamington Spa). There have been a number of viewings of the property, with feedback stating that the ceiling heights are low and the shop front window is limited. In December 2017 a heads of terms was received for a dress hire business. However, the potential tenant deemed the cost of the fit out to be uneconomical and decided not to lease the premises.

It is clear that there has been a limited amount of interest in the site. However, for the proposal to be policy compliant, as the proposal would result in the

change of use of an A use to a non-A use, it has to be demonstrated that the proposed use is for a service or facility that can be demonstrated to meet an important unmet local need.

The Planning Statement elaborates on this point, stating that investigations have been carried out with Parish and District Councillors to see whether there are any unmet local needs. The Planning Statement identifies a number of other nearby community facilities which are able to accommodate a wide range of local groups. It therefore concludes that there is no demand for further similar space. Local Councillors and the Parish Council have offered support for the change of use and agree with these statements.

Officers recognise that the unit has been vacant since 2014 and therefore it is necessary to consider the planning balance and whether it is reasonable to insist that the unit remains in retail or service use. Officers have some concerns that if the application is not approved, that the unit could continue to remain empty. However, although the property has been empty since 2014, full active marketing only commenced in November 2016, making the vacancy period while active marketing was being undertaken less than 2 years. It is accepted that this is a relatively long period of time. However, the agent confirms that there was an interested party at one point, who went as far as drawing up Heads of Terms to lease the premises. If the owner had been able to offer a reduced rent for a short period to allow the potential tenant to pay for the fit out (which is common for new businesses), or paid a contribution towards this, then Officers assume that it is more likely that the tenant would have taken the unit. Furthermore, Officers also have concerns as to whether a suitably thorough, comprehensive marketing campaign has been carried out, as no marketing board was apparent on the property when Officers made a site visit. Also, updating the shop front may have encouraged more interest in the site.

Therefore, in considering the planning balance, Officers accept that the owners have been unable to find a tenant for the property. However, it is felt that more could be done to make the property more attractive for a tenant. Furthermore, it is important to bear in mind that decisions must be made in accordance with the Development Plan unless material considerations indicate otherwise. In this regard the proposals conflict with Local Plan policy TC17 and are therefore considered to be unacceptable in principle.

The impact on the character and appearance of the area

The National Planning Policy Framework (NPPF) places significant weight on ensuring good design which is a key aspect of sustainable development and should positively contribute towards making places better for people. The NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving character, the quality of an area and the way it functions. Furthermore, Warwick District Council's Local Plan 2011 - 2029 policy BE1 reinforces the importance of good design stipulated by the NPPF as it requires all development to respect surrounding buildings in terms of scale, height, form and massing. The Local Plan calls for development to be constructed using appropriate materials and seeks to ensure that the appearance of the development and its relationship with the surrounding built

and natural environment does not detrimentally impact the character of the local area.

The change of use of the existing retail unit to a dwelling would require some fenestration alterations, principally, the installation of additional doors and windows to the current configuration. Providing these were constructed from matching materials to those of the existing dwelling which can be secured by condition, it is not considered that this would have a harmful impact on the street scene.

The development is therefore considered to be in accordance with Local Plan policy BE1.

The impact on landscape and heritage assets

Section 72 of the Planning (Listed Buildings and Conservation Areas) 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. Section 66 of the same Act imposes a duty to have special regard to the desirability of preserving a listed building or its setting when considering whether to grant a planning permission which affects a listed building or its setting.

Paragraph 193 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 196 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.

The explanatory text for Local Plan policy HE1 clarifies that in considering applications relating to Conservation Areas, the Council will require that proposals do not have a detrimental effect upon the integrity and character of the building or its setting, or the Conservation Area. Local Plan policy HE2 supports this and states that it is important that development both within and outside a conservation area, including to unlisted buildings, should not adversely affect its setting by impacting on important views and groups of buildings within and beyond the boundary.

It is considered that the proposed change of use would not significantly impact on the Conservation Area. The fenestration alterations are in keeping with the design of the existing building and nearby traditional development. The proposed windows and doors can be conditioned to be constructed from matching materials to those of the existing dwelling which would ensure that the most appropriate materials are used and similarly all external joinery should be in painted timber. Therefore, the proposal is not considered to cause harm to the Conservation Area.

The proposal is therefore considered to comply with Local Plan policies HE1 and HE2.

The impact on living conditions of nearby dwellings

Warwick District Local Plan policy BE3 requires all development to have an acceptable impact on the amenity of nearby users or residents and to provide acceptable standards of amenity for future users or occupiers of the development. There is a responsibility for development not to cause undue disturbance or intrusion for nearby users in the form of loss of privacy, loss of daylight, or create visual intrusion.

The proposed change of use would not have a detrimental impact on the living conditions of the occupiers of neighbouring properties as there will be no extensions to the existing property or overlooking caused.

The proposal is therefore considered to comply with Local Plan policy BE3.

Car parking and highway safety

WCC Highways have assessed the application and note that a car parking space has been provided to the rear of the dwelling to serve the property. WCC Highways assume that the parking space is currently likely to be used for the existing shop for deliveries or staff parking, and that therefore the parking space is unlikely to intensify the use of the existing vehicular access. WCC Highways therefore have no objection to the proposed change of use.

There is also space for cycle storage at the rear of the site.

It is therefore considered that the development is acceptable in this regard and therefore accords with Local Plan policy TR3 and the Council's adopted Vehicle Parking Standards guidance.

Waste storage

Contract Services have no objection to the proposal. There is ample space to the rear of the property to accommodate waste and recycling storage.

Ecological impact

WCC Ecology have assessed the application and recommend that bat and nesting bird notes are attached to any approval granted.

Health and Wellbeing

There are no health and wellbeing issues raised.

Other Matters

The anticipated vehicle use by residents of the new development is likely to cause an incremental increase in traffic in areas of poor air quality within the district. To offset this it is recommended that the developer is required to provide electric vehicle charging facilities for the new dwelling. A condition could be added to secure this if the application were being approved.

CONCLUSION

In conclusion, the proposed change of use would not adversely affect the character and appearance of the area, the special qualities, character and appearance of the Conservation Area and would not have a detrimental impact on local residents. However, the principle of development is contrary to the relevant provisions of the Local Plan and notwithstanding the information that has been submitted regarding the loss of the shop, the proposed change of use to a dwelling does not represent a facility or service, nor is there any justification as to what local need this proposal would satisfy. For these reasons the development would therefore be contrary to Local Plan policy TC17.

REFUSAL REASONS

- 1 Warwick District Local Plan 2011-2029 policy TC17 seeks to protect local shopping centres, stating that changes of use from A-class uses to all other uses will not be permitted unless the proposal is for a service or facility which can be demonstrated to meet a particular unmet local need and which can be satisfactorily controlled by a planning condition.

The proposal seeks to change the existing retail unit (use class A1) to a residential dwelling (use class C3). Notwithstanding the information that has been submitted regarding the loss of the shop, the proposed change of use to a dwelling does not represent a facility or service, nor is there any justification as to what unmet local need this proposal would satisfy.

The proposal is therefore considered to be contrary to the aforementioned policy.
