

**Planning Committee:** 01 February 2006

**Item Number:** 09

**Application No:** W 05 / 1927

**Registration Date:** 25/11/05

**Town/Parish Council:** Warwick

**Expiry Date:** 20/01/06

**Case Officer:** Steven Wallsgrove

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**5-7 Jury Street, Warwick, CV34 4EH**

Change of use of ground floor from A1 (shop) to mixed A3/A4 use (restaurant and bar). Installation of a new kitchen extract and air conditioning units to rear, rear conservatory extension, extension /alteration to existing store and new shop front.  
FOR Mrs Annie Guller

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This application was deferred at the Planning Committee on the 11th January 2006, to enable a site visit to take place on 28th January 2006. The report which follows is that which was presented previously, but amended to incorporate the items in the addendum.

This application is being presented to Committee due to an objection from the Town Council having been received.

**SUMMARY OF REPRESENTATIONS**

**Warwick Town Council:** The Town Council still considers that this application should be refused and endorse their previous objections. The site is located within a row of commercial premises on the north side of Jury Street and the continued erosion of the retail base of the Town Centre is a concern to the Town Council, who have expressed their objections to the proposals of the WDLP Revised Deposit Version to encourage a general acceptance of a change of use from A1 to A3/A4, because of the detrimental effect upon the retail base of the Town Centre, whose prime function must be retail.

The site is entirely enclosed and surrounded at the rear by residential properties and the proposed use will be detrimental to the amenities of those properties by way of noise and odours from the kitchen extractor fans and ducting as well as noise from patrons and any activities which might be provided for 80-100 customers.

All deliveries will occur to the front of the premises in front of which are double yellow lines.

The use will generate considerable waste and there is no provision for such waste to be collected other than from the pavement in front of the property or to be transferred from the rear of the property other than through a food area.

The relaxation of licensing hours would enable any restaurant to operate into the early hours and this would exacerbate the un-neighbourly effect of the development of adjoining residential units.

**The Warwick Society:** We wish to object to the change of use and conversion of these premises from retail shop to restaurant. While this area is designated as "mixed use" in the Local Plan at Policy TCP8, there are detailed issues which arise from the premise's location, hemmed in on three sides by other businesses and without rear access.

Servicing a restaurant at this location will necessitate both the delivery of goods and foodstuffs, and the removal of rubbish and food waste, to be carried out across the pavement of Jury Street where there are cars parked. This will also inevitably lead to congestion and rubbish being stored on the pavement of one of Warwick's most important streets in the heart of the Conservation Area.

We are particularly concerned that cooking odours and the noise and vibration from the four air conditioning units, and from the fume extraction system ventilating the kitchen, will be detrimental to the amenity of nearby businesses and residences.

We would ask Warwick District Council to refuse planning permission for this application.

**Environmental Health:** Have no objection subject to noise and fume conditions.

**Neighbours:** Letters of objection have been received from four residents or owners on grounds of noise from customers, air conditioning equipment, and kitchen extractor; clutter; erosion of shopping character; and lack of parking; design of rear; location of refuse bins, and means of escape.

**WCC (Archaeology):** Request an archaeological watching brief condition.

**CAAF:** "Concern was expressed on a number of issues relating to this application. Firstly the change of use to a bar was felt to be inappropriate in this part of Jury Street as there are already a significant number of bars within this part of the town. Concern was expressed at the folding doors to the front of the property which would effectively open up the restaurant to the street which was felt unacceptable for this part of the Conservation Area. Concerns were expressed at the lack of bin storage and the need to bring all the rubbish through the main door of the building. Concerns were expressed that the upper part of the building is still residential and this could lead to disturbance from below. The fire escape is into the neighbouring garden which is unacceptable as this is a private residence. The large flue to the rear was felt to be unacceptable and there would be noise and smell disturbance from this usage. It was suggested that a residential mixed use scheme may be more appropriate on this site which would enable the concrete sectional building which is inappropriate to be removed."

### **RELEVANT POLICIES**

- (DW) ENV6 - Protection and Enhancement of Conservation Areas (Warwick District Local Plan 1995)
- TCP8 - Warwick Town Centre Mixed Use Area (Warwick District 1996 - 2011 Revised Deposit Version)
- (WTC) H3 - Development within the mixed residential/commercial area.
- (WTC) EMP2 - Office development within the mixed residential/commercial area.

### **PLANNING HISTORY**

The only relevant history is a similar application which was withdrawn in October 2005 to resolve fume extraction problems.

### **KEY ISSUES**

## **The Site and its Location**

The property consists of a wide fronted shop, with separate access to the first floor, and lies in the Conservation Area in a mixed use area which includes, shops, estate agents, offices and the Lord Leycester Hotel.

## **Details of the Development**

The proposal is to use the whole of the ground floor as a restaurant, with a small extension on the east side filling in a small yard and a small conservatory on the west side, which would partly act as a fire escape route. The shop front would be replaced, although the design is still under negotiation.

The rectangular section extract flue would be taken up the back of the frontage building and would be painted, by specialists, to replicate brick work while low noise level air conditioning units would be placed at the back of the main restaurant section.

## **Assessment**

The principal issues in this case are the impact on the amenities of local residents, the impact on the Conservation Area, the lack of parking, and the impact on the mix of uses in this street.

The site is outside the area to be in primarily retail use on the Warwick Town Centre Inset of the Adopted Local Plan and the use itself is in accordance with both existing and proposed Local Plan policies which permit the change of use of shops to restaurants in mixed use areas. In addition, since the property lies in the town centre, car parking is not an issue as it is located where there is access to good public transport and there are public car parks.

The use itself will have little material impact on the mixed character of this part of the Conservation Area and the design of the shopfront has now been amended to show a more traditional, simple, window design which is considered to be appropriate to the location of the property in Jury Street.

Since the property is in a mixed use area in the town centre where residential and commercial uses co-exist, the level of amenity which residents can reasonably expect is different to that typical of a wholly residential area. There are many restaurants, public houses, take-aways, and hotels in the town centre and it is considered that, subject to the conditions recommended by Environmental Health, there should be no significant problem created by this use such that a refusal is warranted. In the case of the disposal of waste, a bin area is shown which will be accessed along the fire exit route through the side conservatory, which is shown as being separate from the dining area.

## **RECOMMENDATION**

GRANT, subject to the conditions listed below.

## **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 drawing(s) P32ROY08d, 10a + 12a, and specification contained therein, received on 25 November, and 3 January 2006 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 Local Plan Policy ENV3.
- 3 Details shall be submitted of all machinery, plant and equipment to be installed, located or used on the site which is audible outside of the site boundary when in use. Details to include the average (LAeq), A weighted sound levels produced by the equipment, Octave band noise levels it produces and any noise mitigation measures proposed to limit its impact. All such machinery, plant or equipment shall not be used on the site except in accordance with the prior written approval of the Planning Authority. Any approved noise mitigation measures shall be fully implemented and maintained in accordance with the approved details. **REASON:** In the interests of residential amenity and to ensure that the use does not become a source of annoyance to the occupiers of neighbouring properties.
- 4 Comprehensive kitchen ventilation schemes shall be installed to capture and treat fumes to ensure that as far as reasonably practicable no nuisance is caused from cooking odours. Prior to works commencing, details of the kitchen extraction system shall be submitted to and approved in writing by the Environmental Health Unit of the District Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details. Odour control systems shall be adequately maintained at all times to ensure their 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 ensure that unacceptable cooking odours outside the premises are minimised in the interests of the amenity of the occupiers of neighbouring properties.
- 5 The development hereby permitted shall not commence unless and until two weeks notice in writing of the start of works shall have been given to the Warwickshire Museum as the nominated representative of the District Planning Authority. During the construction period the developer shall afford access at all reasonable times to representatives of the Museum and shall allow them to observe the excavations and record items of interest and finds. **REASON** : To ensure any items of archaeological interest are adequately investigated, recorded and if necessary, protected, in order to satisfy the requirements of Policy ENV22 of the Warwick District Local Plan.

## **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, fumes or design which would justify a refusal of permission. The proposal is therefore considered to comply with the policies listed.

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