

**Planning Committee:** 16 October 2012

**Item Number: 8**

**Application No:** W 12 / 0913

**Town/Parish Council:** Leamington Spa  
**Case Officer:** Rob Young

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**Registration Date:** 30/07/12

**Expiry Date:** 24/09/12

**The Oak Inn, 89 Radford Road, Leamington Spa, CV31 1JY**

Part demolition, internal alterations, conversion and extension to create a convenience retail food store (Use Class A1) including plant equipment, solar photovoltaics and associated highway, parking, engineering and landscaping works. FOR Sainsbury Supermarkets Limited

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This application is being presented to Committee as 5 or more comments in support have been received and it is recommended for refusal.

**RECOMMENDATION**

REFUSE, for the reasons stated at the end of this report.

**DETAILS OF THE DEVELOPMENT**

The application proposes the creation of a convenience retail food store (Use Class A1). The change of use of the existing public house to retail use would be permitted development and therefore this does not require planning permission. However, planning permission is required for the single and two storey rear extension, rooftop plant and associated highway, parking, landscaping and external alterations. Consequently these parts of the development are the subject of this application. The application has been amended to provide a pedestrian refuge on Willes Road, motorcycle bay added to car park, and cycle stands changed to "Sheffield" type stands.

**THE SITE AND ITS LOCATION**

The application relates to a vacant public house that occupies a corner plot at the junction of Radford Road and Willes Road. The application site is situated within a predominantly residential part of the Leamington Spa Conservation Area. The site is roughly triangular in shape, with the public house building located at the eastern corner of the site fronting onto the junction. The public house has side elevations to Willes Road and Radford Road, with a car park to the rear. The car park has vehicular accesses from Willes Road and Radford Road. The car park is bounded by dwellings to the east in St. Mary's Court and by commercial premises to the north-west and north. Dwellings face the site from the opposite side of Willes Road and Radford Road and there is an existing convenience store on the opposite side of Willes Road.

**PLANNING HISTORY**

In 2005 planning permission was granted for "Conversion of existing public house into 8 apartments" (W05/1071).

## **RELEVANT POLICIES**

- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- SC12 - Sustainable Transport Improvements (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP3 - Natural and Historic Environment and Landscape (Warwick District Local Plan 1996 - 2011)
- DP6 - Access (Warwick District Local Plan 1996 - 2011)
- DP7 - Traffic Generation (Warwick District Local Plan 1996 - 2011)
- DP8 - Parking (Warwick District Local Plan 1996 - 2011)
- DP9 - Pollution Control (Warwick District Local Plan 1996 - 2011)
- DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)
- DP14 - Crime Prevention (Warwick District Local Plan 1996 - 2011)
- UAP3 - Directing New Retail Development (Warwick District Local Plan 1996 - 2011)
- DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)
- DAP9 - Unlisted Buildings in Conservation Areas (Warwick District Local Plan 1996 - 2011)
- Vehicle Parking Standards (Supplementary Planning Document)
- Sustainable Buildings (Supplementary Planning Document - December 2008)
- National Planning Policy Framework

## **SUMMARY OF REPRESENTATIONS**

**Town Council:** Object for the following reasons:

- contrary to Local Plan Policy UAP3;
- concern over the safety of pedestrians;
- detrimental impact on local shops; and
- increased traffic problems and inadequate parking facilities.

**Public response:** 10 comments in support and 42 objections have been received (including 2 petitions of objection with a total of 186 signatures).

Those supporting the application have made the following points:

- the store would be very convenient for local residents;
- the store will provide new jobs;
- the development will restore a dilapidated building which is currently an eyesore; and
- the proposals will reduce the need to travel to other stores by car.

Objectors have raised the following concerns:

- this would put local independent shops that provide a valuable local service out of business;
- there is no need for this development, there are plenty of existing shops in the local area;
- detrimental impact on the vitality and viability of the town centre and the Sydenham Drive local shopping centre;
- there are sites available in the town centre for this development;

- increased noise and disturbance for neighbouring dwellings;
- detrimental to highway safety;
- detrimental to the character and appearance of the Conservation Area;
- pedestrian crossings should be provided on Radford Road and Willes Road;
- inadequate provision for deliveries;
- detrimental impact on the nearby public house due to cheap alcohol sales;
- increased traffic congestion;
- insufficient parking provision;
- loss of amenity for neighbouring residents due to increased on-street parking and loss of parking due to the provision of a loading bay on Willes Road;
- the access from Radford Road was turned down by the Council in 2005 on highway safety grounds;
- increased crime and anti-social behaviour;
- loss of light for neighbouring dwellings;
- visual intrusion for neighbouring dwellings;
- overdevelopment;
- loss of a bus stop;
- increased light pollution;
- the proposed opening hours and delivery hours are excessive; and
- the jobs created may well be matched by jobs lost in existing stores.

**Conservation Advisory Forum:** Concerns expressed over the materials and finish of the new build. Would like to see a condition attached to restrict the paint and window colour of the shaded glazing.

**WCC Highways:** The Transport Statement submitted by the applicant has been interrogated by the Highway Authority and found to be robust. The majority of trips associated with the proposal are likely to be 'pass by' trips, thus creating a negligible vehicular impact upon the public highway. The parking provision falls within the LPA's maximum parking standard, and with on street parking being available along Willes Rd, it is thought to be proficient.

It is noted that WDC's Environmental Health Officer suggests that delivery times for all vehicles should be between 0730 and 2130, and although, ideally, the main Sainsbury's delivery would utilise the turning area available on site prior to opening hours, the provision of a Loading Bay on Willes Rd will be adequate as this will not be time limited. Therefore, raise no objection, subject to conditions, including a requirement to provide a pedestrian refuge on Willes Road. The applicant should also be required to complete a Traffic Regulation Order in order to formalise the bus stops including meeting the cost of this (£3500).

**WCC Ecology:** Accept the results of the bat survey and advise that no further survey work or mitigation is necessary. Recommend that notes are added to any planning permission in relation to bats and nesting birds.

**WDC Environmental Health:** Recommend conditions to limit plant noise, to require details of lighting, to require refrigerated vehicles to have refrigeration plant turned off whilst making deliveries and to limit deliveries to between 0730 and 2130 on Monday to Saturday and between 0900 and 1800 on Sundays.

## **ASSESSMENT**

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

- car parking;
- highway / site safety;
- retail policy and the impact on the vitality and viability of the town centre and local shopping centres;
- the impact on the living conditions of neighbouring dwellings;
- the impact on the character and appearance of the Conservation Area; and
- protection of bats.

### Car parking

The proposed car parking provision is significantly below the amount required by the Council's Parking Standards. The Parking Standards require 31 spaces for a food store of this size, whereas the proposals only provide for less than half of this requirement (14 spaces). The applicant has submitted parking surveys from 4 other Sainsburys Local stores around the country to justify the level of parking proposed. However, the data provided confirms that the car parks of all but one of the stores surveyed were full on a number of occasions in the late afternoon / evening and during the day on a Saturday. This is despite the fact that one of these stores has a significantly larger car park than that proposed for the application site (20 spaces). The store where the car park was not full has an even larger car park (22 spaces). This data demonstrates that the demand for parking spaces at these existing stores is significantly in excess of 14 spaces at peak times. The only comparable case in Leamington where a public house has been converted and extended to create a food store is the Tesco Express on Cubbington Road which was approved with 36 spaces. That store is smaller than the store proposed for the application site.

In view of the significant under-provision of parking spaces in relation to the Council's standards, the proposals are likely to result in a significant amount of on-street parking during peak times. On-street parking in the vicinity of the application site is very restricted, with no parking permitted anywhere along the southern side of Radford Road in the vicinity of the application site, and no parking between 8am and 6pm, Monday to Saturday on the northern side of Radford Road. There is also no parking permitted on Radford Road or Willes Road for a significant distance around the nearby junctions. There is a limited amount of unrestricted parking available in the section of Willes Road to the west of the site and on side streets off Willes Road and Radford Road. However, a large proportion of the dwellings in the vicinity of the application site do not have any off-street parking and consequently would be significantly affected by any reduction in the availability of on-street parking. Furthermore, an increase in short-term on street parking associated with the proposed store would result in noise and disturbance for nearby dwellings due to increased vehicle manoeuvring and car doors banging in close proximity to those properties. Therefore, the significant under-provision of car parking on the application site would cause unacceptable loss of amenity for nearby residents.

As there has been no objection from the Highway Authority, it has been concluded that the parking provision is acceptable on highway safety grounds.

#### Highway / site safety

The Highway Authority have accepted the conclusions of the Transport Assessment that has been submitted with the application. The majority of trips associated with the proposal are likely to be 'pass by' trips, thus creating a negligible vehicular impact upon the public highway. The concerns of neighbours regarding the safety of the delivery arrangements are noted, but the Highway Authority have agreed that the delivery arrangements would be acceptable. The Highway Authority have confirmed that it would not be necessary to condition the provision of a loading bay on Willes Road because loading / unloading can take place on double yellow lines.

The proposed delivery arrangements are as follows. The car park will not open until after the main delivery by Sainsbury's starts to unload, just after 7.30am. Therefore, customers will need to find alternative arrangements to park between 7.00am and approximately 7.40am (the time by which the delivery vehicle is in place and unloading). Parking demand at this time is likely to be very low. The delivery process takes about 30 minutes. Once the delivery vehicle is in place and starts to unload (7.40am), then the car park can be reopened with 10 available spaces. All non-Sainsbury's deliveries (bread, milk, newspapers etc) will park on Willes Road to unload. Sainsbury's deliveries will occur within the car park. The applicant has offered an opening restriction of 7.30am so that the period when the car park is unavailable due to deliveries is shortened, if the Council considers this appropriate.

The applicant has agreed to provide a pedestrian refuge on Willes Road following a request from the Highway Authority. The Highway Authority have not requested any form of crossing for Radford Road. The applicant has also proposed to paint bus stop markings adjacent to the site on Willes Road and Radford Road.

Objectors have queried why the access onto Radford Road was required to be closed off as part of the previous approval for a residential development on this site, but this is now proposed as the sole access to the site. From a highway safety point the main concern is to ensure that one of the two accesses is closed off. The closure of the Radford Road access worked better with the residential development than was proposed, but it is actually preferable from a highway safety point of view for the Willes Road access to be closed off because Willes Road carries more traffic.

Whilst the proposals have been deemed to be acceptable in terms of highway safety, there are significant concerns about the safety of the pedestrian and vehicular manoeuvring arrangements within the site. The entrance to the store would open out directly onto the vehicular manoeuvring area for the car park. This is likely to result in pedestrians coming into conflict with vehicles manoeuvring around the car park and therefore this arrangement is considered to be unacceptable on safety grounds. The car park is likely to be heavily used at certain times of the day and there are likely to be frequent comings and goings of vehicles, with drivers already distracted by having to be aware of other vehicles entering, exiting and manoeuvring around the car park. It is not considered acceptable to permit this potentially dangerous arrangement when

the proposed extension could easily be redesigned to allow for a small area for pedestrians only in front of the doors.

#### Retail policy and the impact on the vitality and viability of the town centre and local shopping centres

The proposed store is intended to provide 220 sq m (net retail floorspace) of convenience shopping to provide for a local catchment (predominantly local 'top-up' type shopping for the south Leamington area within a 500m radius of the proposal). As the proposals are for retail use, the NPPF requires the applicant to demonstrate that there are no sequentially preferable alternative sites that are suitable and available for the proposed development. However, it is also important to consider that the existing premises can be used as a shop without the need for planning permission and this could provide a foodstore of some 145 sq m (net retail floor area). As a result, the proposal is only seeking a further 75 sq m of net retail sales area. The possibility of a 145 sq m foodstore opening on this site without the need for planning permission represents a realistic fall-back position should permission be refused for the current proposals. This is an important material consideration in assessing the application. The further 75 sq m retail floorspace that is proposed would have a minimal impact on the retail areas in the Old Town (Clemens Street / High Street) or on the nearest local centre at Sydenham Drive (Stanley Court). The applicant has carried out a sequential assessment which identifies a number of vacant premises in Old Town but concludes that none of these are suitable for the development proposed, primarily due to these units being too small. Whilst there are limitations with the sequential assessment that has been carried out, when considered in the context of the fall-back position and the fact that the additional floorspace proposed would not harm the vitality or viability of the town centre or local shopping centres, it has been concluded that there are no retail policy grounds for refusing planning permission.

The concerns raised by the objectors relating to a lack of need for the proposals are noted, however the NPPF does not require developers to demonstrate a need for developments such as this. Whilst it is suggested that the proposals may result in the closure of other out-of-centre shops in the locality, this is a matter of economic competition that cannot be a reason for refusing planning permission. There are no policy grounds for protecting one out-of-centre shop from another.

#### Impact on the living conditions of neighbouring dwellings

The impact of increased on-street parking on neighbouring dwellings has been considered under the "Car parking" heading above. With regard to the potential for noise and disturbance from activities within the application site and from deliveries, it is noted that Environmental Health have proposed a number of conditions to limit plant noise, to require details of lighting, to require refrigerated vehicles to have refrigeration plant turned off whilst making deliveries and to limit deliveries to between 0730 and 2130 on Monday to Saturday and between 0900 and 1800 on Sundays. It is considered that these conditions would adequately control noise from the proposed foodstore, particularly considering the fall-back position whereby a smaller foodstore could be opened without the need for planning permission and consequently without any conditions. There are also no conditions relating to the operation of the premises as a public house.

In terms of the potential for the development to cause loss of light or loss of outlook for neighbouring dwellings, it is noted that the proposed extension would be 20m from the front elevations of the dwellings on the opposite side of Willes Road, 20m from the side elevation of the adjacent dwelling in St. Marys Court and 29m from the front elevation of the nearest dwelling on the opposite side of Radford Road. In view of these separation distances and the fact that no new first floor windows are proposed, it has been concluded that the proposals would not result in unacceptable loss of light, loss of outlook or loss of privacy for neighbouring dwellings. It has also be concluded that the proposals would have an acceptable impact on the adjacent office premises at No. 54 Willes Road.

#### Impact on the character and appearance of the Conservation Area

The proposed extension has been designed as a contemporary addition to the traditional public house building and this is considered to be an appropriate design solution for this site. The design has been agreed by the Council's Conservation Architect and would respect the traditional character of the existing building. The proposals retain all of the important parts of the public house building. The parts of the building to be demolished are of little architectural interest or are later additions. Therefore it has been concluded that the proposals would preserve the character and appearance of the Conservation Area. With regard to the comments of the Conservation Area Forum, a condition could be imposed to address any issues relating to design details or materials.

#### Protection of bats

A bat survey has been carried out and this did not find any evidence of bats using the application property. The County Ecologist has accepted the results of the survey. Therefore it has been concluded that the proposals would not cause harm to bats.

#### Other matters

The applicant has confirmed that refuse and recycling would be stored within the back-up area at first floor. The size of this area is more than adequate to cater for refuse and recycling in addition to any other storage requirements and there would be a goods lift to transport refuse and recycling to ground floor level.

The application proposes the installation of solar photovoltaic panels and an air source heat pump to meet 10% of the predicted energy requirements of the development. This would meet the requirements of Local Plan Policy DP13.

All other matters raised by neighbours have been taken into account, including the impact on the nearby public house and the potential for increase crime, disorder and anti-social behaviour. However, none of these matters are considered to justify a refusal of planning permission, particularly considering the fall-back position whereby the premises could open as a smaller foodstore without the need for planning permission.

Whilst the economic and environmental benefits of the proposed development in terms of creating jobs and bringing an empty property back into use are acknowledged, these benefits are not considered so sufficient to outweigh the harm caused to the amenity of surrounding occupiers or the safety of users of the proposed development.

## **REFUSAL REASONS**

- 1 The proposed car parking provision is significantly below the amount required by the Council's Parking Standards. The Parking Standards require 31 spaces for a food store of this size, whereas the proposals only provide for less than half of this requirement (14 spaces). In the opinion of the District Planning Authority, this under-provision of parking is likely to result in a significant amount of on-street parking during peak times. On-street parking in the vicinity of the application site is very restricted and a large proportion of the dwellings in the surrounding area do not have any off-street parking. An increase in short-term on-street parking associated with the proposed store, would result in noise and disturbance causing unacceptable loss of amenity for nearby residents.

The proposals are therefore considered to be contrary to Policy DP8 of the Warwick District Local Plan and the Parking Standards Supplementary Planning Document, causing harm to amenity contrary to Policy DP2 of the Warwick District Local Plan and Paragraph 58 of the National Planning Policy Framework.

- 2 The entrance to the proposed store would open out directly onto the vehicular manoeuvring area for the car park. In the opinion of the District Planning Authority this is likely to result in pedestrians coming into conflict with vehicles manoeuvring around the car park and therefore this arrangement is considered to be unacceptable on safety grounds.

The proposals are therefore considered to be contrary to Policies DP1 and DP6 of the Warwick District Local Plan.

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