Planning Committee: 18 August 2015 **Item Number:** 11

Application No: W 15 / 1060

Registration Date: 02/07/15
Town/Parish Council: Leamington Spa **Expiry Date:** 27/08/15
Case Officer: Jo Hogarth
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46 Warwick Street, Leamington Spa, CV32 5JS
Proposed change of use of ground and first floors from Class A1 (retail) to Class A3 (restaurant) together with external ductwork extraction. FOR Piazza Pizzeria Ltd

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This application has been requested to be presented to Committee by Councillor Knight.

RECOMMENDATION

Planning Committee are recommended to refuse to grant planning permission for the reasons identified.

DETAILS OF THE DEVELOPMENT

The proposal seeks to change the use of the building from Class A1 (retail) to Class A3 (restaurant) together with external exterior ductwork. The main restaurant area is proposed on the ground floor with the first floor accommodation comprising an ancillary kitchen, toilets, storage and staff area. A DEFRA approved wood and gas pizza oven is proposed at the rear of the ground floor restaurant.

THE SITE AND ITS LOCATION

The site relates to a non-listed building situated on the south side of the road within the designated Royal Leamington Spa Conservation Area. The site is identified in the Local Plan as being within a secondary retail area within the Town Centre and forms a terrace of 10 buildings which are of varying retail use.

PLANNING HISTORY

A previous application (reference W/15/0126) for the same change of use was submitted however was subsequently withdrawn to enable the applicant to present further information to support their proposal.

RELEVANT POLICIES

- National Planning Policy Framework

The Current Local Plan

- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP9 - Pollution Control (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)
- TCP5 - Secondary Retail Areas (Warwick District Local Plan 1996 - 2011)
- DP8 - Parking (Warwick District Local Plan 1996 - 2011)

The Emerging Local Plan

- BE1 - Layout and Design (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- BE3 - Amenity (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- HE2 - Protection of Conservation Areas (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TC7 - Secondary Retail Areas (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TR4 - Parking (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)

Guidance Documents

- Vehicle Parking Standards (Supplementary Planning Document)

SUMMARY OF REPRESENTATIONS

Royal Leamington Town Council: No objection.

WDC Environmental Health: Object as the use of a gas/wood combi pizza oven is likely to cause nuisance to surrounding properties through smoke and cooking odours.

ASSESSMENT

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

- Principle of the change of use
- Impact on neighbours
- Impact on the Conservation Area
- Parking
- Bin storage
- Health and Wellbeing

The Principle of the Development

The site is within a secondary retail area whereby Policy TCP5 in the Local Plan states:

"Changes of use from shops (Used Class A1) to financial and professional services (Use Class A2); restaurants and cafes (Use Class A3); drinking establishments (Use Class A4) or hot food take-aways (Use Class A5) within the secondary retail areas will be permitted unless:-

a) more than 50% of the total length of the street frontage is in non A1 (retail) use; or
b)the proposal consists of, or would contribute to creating a continuous non A1 (retail) frontage of more than 16 m.

The percentage of this street frontage in non-A1 use is currently 60% and it is considered that by permitting this change of use, this would increase to 70%. Furthermore, this unit together with adjoining The Duke Public House would result in a continuous non-A1 frontage of 20 metres.

For that reason, there is an objection in principle to the proposed change of use because the proposal does not meet the criteria set out in Policy TCP5 in the Local Plan.

The applicant has sought to demonstrate that the Class A1 retail use is not viable through the provision of marketing details indicating that it has been constantly marketed since 2013 but with no firm interest from retailers. They suggest that this area of the town does not attract retailers because of a lower footfall and that the application building is not sufficiently prominent to assist in that respect.

However, the shop unit is currently a furniture shop and has been for approximately 17 years and on this basis it is considered that the loss of an A1 unit would be harmful to the viability of the Town Centre and contrary to the provisions of Policy TCP5 in the Local Plan.

It is not considered that the considerations raised by the Applicant set out above are sufficient to outweigh Policy TCP5 in the Local Plan.

The impact on neighbours

The application site is situated between two, three storey buildings one of which comprises of residential use on the upper floors (above number 48 Warwick Street). In terms of impact on these residents, it is considered that the proposed extraction termination point for the proposed restaurant, which is at a lower level than the residential use, would give rise to nuisance through smoke and cooking odours. On this basis it is considered that the proposal would be contrary to the requirements of Policy DP2 in the Local Plan which states that development will not be permitted which has an adverse impact on the amenity of nearby uses and residents and Policy DP9 which states that *"development will only be permitted which does not give rise to soil contamination or air, noise, radiation, light or water pollution where the level of discharge, emissions or contamination could cause harm to sensitive receptors".*

Impact on the Conservation Area

It is considered that the proposed change of use in itself would not result in unacceptable harm to the character or visual setting of the Conservation Area such that a refusal on these grounds could be sustained. It is therefore considered that there would be no conflict with Policies DAP8 or DAP9 in the Local Plan.

Parking

There are no off street parking facilities for this unit. Under the Council's adopted Vehicle Parking Standards SPD, the requirements for a Class A1 retail use and A Class A3 restaurant use are the same, within this high accessibility zone. Therefore it is considered that there would be no conflict with the vehicle parking standards or to the objectives of Policy DP8 in the Local Plan.

Bin Storage

The proposal includes the provision of bin storage in the rear courtyard which allows access via an alleyway to the front of the unit, onto Warwick Street. It is considered that this provision is acceptable.

Health and Wellbeing

N/A

SUMMARY/CONCLUSION

It is considered that this proposed change of use would be contrary to the objectives of Policy TCP5 in the Local Plan and would undermine the retail viability of the Town Centre. Furthermore, the proposed gas/wood combi boiler is likely to lead to nuisance to nearby residents from smoke and cooking odours from the flue gases which would be unneighbourly and in conflict with Policies DP2 and DP9 in the Local Plan.

REFUSAL REASONS

1 The proposed change of use would result in the introduction of a further non-A1 retail use within a secondary retail frontage within the Royal Leamington Spa town centre, resulting in an inappropriate mix and balance of uses within that frontage to the detriment of the vitality and viability of that town centre, contrary to the following national and local plan policies:

- The National Planning Policy Framework

The Warwick District Local Plan 1996-2011
- Policy TCP5

The emerging Warwick District Local Plan 2011-2029 (Publication Draft April 2014)
- Policy TC7

2 The proposed extraction flue, by reason of its location relative to nearby residential properties would result in unacceptable harm to the occupants of nearby residential properties arising from cooking odours; fumes and smoke to the detriment of the residential amenities of those properties, contrary to:

- The National Planning Policy Framework

The Warwick District Local Plan 1996-2011
- Policy DP2

- Policy DP9

<u>The emerging Warwick District Local Plan 2011-2019 (Publication Draft April 2014)</u>

- Policy BE3