Planning Committee: 05 January 2011 **Item Number:**

Application No: W 10 / 1313

Registration Date: 11/10/10

Town/Parish Council: Warwick **Expiry Date:** 06/12/10

Case Officer: Alex Smith
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53 Coten End, Warwick, CV34 4NU

Change of use from A1 (Travel Agent) to 'Professional Tattoo Parlour' (sui generis) FOR Brazen Ink Tattoo Parlour

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This application was considered at the previous meeting of the Committee on 8 December, when it was resolved that permission be granted. Some legal issues were raised by a speaker at the meeting on 8 December and the Council's legal advisors have therefore been asked to review the position. They have advised that the planning permission should not be issued and that the matter be referred back to the Committee for further consideration, together with an amended report.

The principal issues to be considered are as follows:

- whether the objections of some residents had been properly taken into account, given that there was some doubt about whether certain letters had been scanned and had appeared on the Council's website;

- the fact that the proposal is a departure from the development plan, which may not have been made entirely clear from the written report given at the previous meeting.

This report will therefore address these matters: the comments of all objectors are available to view on the Council's website and the wording of the report has been amended to ensure that the departure from policy is made clear and that the recommendation to approve is considered in relation to the departure.

SUMMARY OF REPRESENTATIONS

Warwick Town Council: - Object - The Town Council consider that this application is inappropriate the location near to schools and youth club and in the opinion of the town Council the use will not significantly increase footfall and the proposal; will not meet a local need.

Public Response: 28 objections received to date raise the following objections:

Business is not suitable for a local shopping centre.
Proximity to school / youth centre and potential for influence over children.
Detrimental to the historic element of the town.
Clientele of the business would not be desirable
Lack of parking
Not fitting for a residential area.
Business unlikely to succeed in this area
Public consultation insufficient.

Included in these objections was a letter from Mr and Mrs Thorogood who objected on the following basis:

Under policy UAP4 a change of use from Class A to all other uses will not be permitted unless the proposal is for a community service or facility which can be demonstrated to meet particular local need. Mr and Mrs Thorogood object on the grounds that a tattoo parlour does not provide a community service or facility. The application fails to demonstrate the local need for a tattoo parlour in this location.

The proposed change of use is inappropriate for an area such as this, given the high proportion of homes and general nature of the area.

6 responses received in support of the application raising the following points.

Local need for a tattoo parlour
New business within the town
Potential for extra trade to other business in Coten End.

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)
- DP14 - Crime Prevention (Warwick District Local Plan 1996 - 2011)
- DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)
- UAP4 - Protecting Local Shopping Centres (Warwick District Local Plan 1996 - 2011)

PLANNING HISTORY

W/89/1139 - Conversion and extension of premises to form retail premises on ground floor with self contained flat over and erection of a spiral staircase.

KEY ISSUES

The Site and its Location

The application relates to a terraced retail unit on the northern side of Coten End. This property is in the Coten End Local Shopping Centre and lies directly opposite the Sainsbury's development on the Southern side of the street.

The property was originally built as a dwelling house but was converted into retail premises under planning application W/89/1139. The property has since been converted into a full A1 retail use and the flat upstairs no longer remains. The property retains a number of features of the dwelling house with a large window in the principal elevation instead of a standard shopfront.

The northern side of Coten End is composed of primarily A1 retail units, with A3, A5 and B1 uses as well as Millwright Arms and The Oak public houses which fall under A4 use class. The property is also in close vicinity to Coten End Primary School and a Youth Centre.

Although the property is not within a conservation area, it is adjacent to the Warwick Conservation Area as the boundary line ends at 65 Coten End.

Details of the Development

The application is for the change of use from an A1 retail unit (Travel Agent) to a tattoo parlour, which is not in a class (*sui generis*).

Assessment

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

- Change of use from A1 to a *sui generis* use in a Local Shopping Centre
- The Impact on the Character and Appearance of the Area.
- Availability of Parking on Coten End

Change of use from A1 to a *sui generis* use in a Local Shopping Centre

Policy UAP4 of the Warwick District Local Plan states that change of use from Use Class A to all others uses will not be permitted unless the proposal is for a community service or facility which can be demonstrated to meet a particular local need and which can be satisfactorily controlled by planning condition.

A tattoo parlour could not be considered as a community service or facility and any grant of permission is therefore a departure from policy UAP4 of the District Plan.

Nevertheless, the view is taken that a tattoo parlour has certain characteristics which make it similar to an A1 unit, and suited to a location on the edge of a shopping centre.

The design of the building also requires consideration in deciding this application. The property was originally constructed as a residential dwelling and still retains the features of residential accommodation. The lack of a shopfront and large shop window has ensured that the property has struggled to attract a retail tenant and has been available to let whilst being actively marketed since 15th May 2009.

It is also useful to examine the impact that the proposed use would have on the shopping centre, in terms of the proportions of non-A1 uses. At present the shopping centre is currently 41.8% non A1 usage, which would rise to 45.2% if the change of use applied for in this application is granted. This mixture of A1 and non A1 units within the local shopping centre is not considered to detrimentally affect the ability of the area to fulfil its retail function.

A number of public responses raised the objection that the close proximity to residential properties would make the proposed location of the tattoo parlour unsuitable. This area is designated as a local shopping centre as part of the Warwick District Local Plan 1996-2011. It is considered that the impact on the amenity of any neighbouring commercial and residential properties would be

minimal and would not be contrary to Policy DP2 of the Warwick District Local Plan 1996-2011.

I have considered the alternative outcome of refusing this application, which would be that a retail unit which has struggled to attract tenants would remain empty for an unknown duration. The view is therefore taken that attracting a new business into the shopping centre would be more beneficial than leaving the unit vacant.

The Impact on the Character and Appearance of the Area.

Policy DP1 of the Warwick District Local Plan states that development will only be permitted which positively contributes to the character and quality of its environment through good layout and design.

The property still has a number of architectural features of its original design as a dwelling house, which have contributed to the difficulty in letting. A tattoo parlour is not a business which requires shop frontage to display products. Therefore use would be sympathetic to the design of the property and would allow for a business to operate without the need for alterations to the property.

A number of people have objected on the grounds that it would be detrimental to the safety of the area, but there is no evidence that a tattoo parlour contributes to anti social behaviour. Indeed account has to be taken of the two pubs in close proximity to the property.

The property is located next to a conservation area, so under policy DP8 views out of the conservation area need to be considered. These would be unaffected by the change of use.

The majority of the objections raised the issue that the business would be in close proximity to a school and youth centre. However, national regulations require any person under 18 to be with a parent (or guardian) when being tattooed.

Accordingly, I am of the opinion that none of the issues raised by residents would warrant a refusal of permission.

Availability of Parking.

A number of residents have raised concerns in relation to parking within Coten End. The applicant states that people visiting the tattoo parlour are advised not to drive, as it is not safe to drive after any tattooing procedure. The effect of this is that majority of people are dropped off and picked up due to the length of each procedure.

With the artist unable to work on more than one visitor at a time, the likely effect is that the tattoo parlour would require less parking than a standard A1 business, as they have less customers who stay for longer periods. There is also on-street parking available outside the property and public transport links are available in the vicinity.

I am therefore of the opinion that the change of use would not detrimentally affect the availability of parking to an extent that would warrant a refusal of this application.

Conclusion

I consider that the departure from the development plan can be justified by the following reasons:

- the nature of the proposed use has similar characteristics to an A1 use,
- the lack of a shop front and large shop window make the unit somewhat unsuited to a retail use,
- the unit has failed to attract a retail tenant and has remained empty since May 2009,
- the proposal would not result in a detrimental impact upon the ability of the area to fulfil its retail function.

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.

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, although the development is a departure from local plan policy, the characteristics of the proposed use make it a suitable use for a shopping centre of this type and the characteristics of the design of the building make it somewhat unsuited to a retail use. Furthermore, it is not considered that this change of use would materially affect the ability of the local shopping centre to fulfil its retail role.