



www.warwickdc.gov.uk

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Application for Removal or Variation of a Condition following Grant of Planning Permission or Listed Building Consent

Town and Country Planning Act 1990 (as amended); Planning (Listed Buildings and Conservation Areas Act) 1990 (as amended)

Publication of applications on planning authority websites

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website. If you require any further clarification, please contact the Authority's planning department.

Site Location

Disclaimer: We can only make recommendations based on the answers given in the questions.

If you cannot provide a postcode, the description of site location must be completed. Please provide the most accurate site description you can, to help locate the site - for example "field to the North of the Post Office".

Number	<input type="text" value="20"/>
Suffix	<input type="text"/>
Property Name	<input type="text"/>
Address Line 1	<input type="text" value="Castle Street"/>
Address Line 2	<input type="text"/>
Address Line 3	<input type="text" value="Warwickshire"/>
Town/city	<input type="text" value="Warwick"/>
Postcode	<input type="text" value="CV34 4BP"/>

Description of site location must be completed if postcode is not known:

Easting (x)	Northing (y)
<input type="text" value="428279"/>	<input type="text" value="264803"/>

Description

Applicant Details

Name/Company

Title

First name

Surname

Company Name

Address

Address line 1

Address line 2

Address line 3

Town/City

County

Country

Postcode

Are you an agent acting on behalf of the applicant?

Yes

No

Contact Details

Primary number

**** REDACTED ****

Secondary number

Fax number

Email address

**** REDACTED ****

Description of the Proposal

Please provide a description of the approved development as shown on the decision letter

Notice is hereby given that Variation of Condition is GRANTED for:
Variation of condition 2 on p.p W05/1380 for the Change of use to a mixed A1(retail) and A3 (cafe) use. Condition 2 to read "The use hereby permitted shall be carried on only by Mr Michael Hornsby and Ms Karen Hobbs and on the discontinuance of his occupancy of the premises the use hereby permitted shall cease. REASON: Since permission for the development would not normally be granted other than in the special circumstances put forward by the applicant."
at 20 Castle Street, Warwick, CV34 4BP
for Thomas Oken Tea Rooms in accordance with the application submitted on 16/09/10.

Subject to the following condition(s)/reason(s):

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 use hereby permitted shall be carried on only by Mr Michael Hornsby and Ms Karen Hobbs and on the discontinuance of their occupancy of the premises the use hereby permitted shall cease.
REASON: Since permission for the development would not normally be granted other than in the special circumstances put forward by the applicant.

3 Food preparation is to be limited to the service of customers on the premises only. REASON: As there is no odour extraction system in place to deal with other cooking operations.

4 Cooking operations shall be restricted to the reheating or toasting of breads, cakes and pastries, and the preparation of hot beverages and soups only. REASON: As there is no odour extraction system in place to deal with other cooking operations.

5 The premises shall only be open to the public between the hours of 09.00 and 19.00. REASON: To protect the amenities of surrounding properties, in accordance with Policies DP2 and DP9 of the Warwick District Local Plan.

Reason for Decision / Relevant Policies

In the opinion of the District Planning Authority, the development achieves acceptable standards of layout and use and does not give rise to any harmful effects in terms of noise or odour which would justify a refusal of permission.

The proposal is therefore considered to comply with the policies listed.

- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP9 - Pollution Control (Warwick District Local Plan 1996 - 2011)

Reference number

W/10/1220

Date of decision (date must be pre-application submission)

02/11/2010

Please state the condition number(s) to which this application relates

Condition number(s)

Condition 2

Has the development already started?

- Yes
 No

If Yes, please state when the development was started (date must be pre-application submission)

02/11/2010

Has the development been completed?

- Yes
 No

If Yes, please state when the development was completed (date must be pre-application submission)

02/11/2010

Condition(s) - Variation/Removal

Please state why you wish the condition(s) to be removed or changed

The Thomas Oken Tea Rooms is now a well established business, contributing significantly to the economy of the town, and enjoys a very good reputation and support from local and tourist clientele.

As with any successful business, there will come a time when the current owners choose to sell, for whatever reason. Currently, a variation of condition 2 is required to replace the current owners with those of the new ones.

Although this process has precedent, and this application at minimum is requesting the variation, it is fair to say the situation is not ideal, and does directly impact the viability of the business as well as adding unnecessarily to the administrative burden of the district council. Every time new owners come to sell, they will face the same requirement to apply for a variation of condition 2, at significant cost and with the associated uncertainty that goes with the application.

If you wish the existing condition to be changed, please state how you wish the condition to be varied

The application seeks to vary the condition from 'carried on only by Mr Michael Hornsby and Ms Karen Hobbs', to that of the business; 'carried on by The Thomas Oken Tea Rooms - a business run in accordance with these conditions' as a non-material amendment (S96a). This allows an amendment to be made to an existing planning permission but does not materially change the existing consent. No publicity is needed and the timeframes are at the discretion of the LPA.

This would seem to be the most expedient approach, given that the closure of the sale is imminent, but impossible without a suitable variation. However, I also believe it can be argued that given the circumstances, condition 2 could be removed entirely. I have attached a supporting document for consideration.

Site Visit

Can the site be seen from a public road, public footpath, bridleway or other public land?

- Yes
 No

If the planning authority needs to make an appointment to carry out a site visit, whom should they contact?

- The agent
 The applicant
 Other person

Pre-application Advice

Has assistance or prior advice been sought from the local authority about this application?

- Yes
 No

If Yes, please complete the following information about the advice you were given (this will help the authority to deal with this application more efficiently):

Officer name:

Title

***** REDACTED *****

First Name

***** REDACTED *****

Surname

***** REDACTED *****

Reference

RE: Variation of condition 2; W/05/1380, W/10/1220

Date (must be pre-application submission)

25/01/2024

Details of the pre-application advice received

You can apply online through planningportal.co.uk as a variation of condition application. You can also download a form here: Submit a planning application - Warwick District Council (warwickdc.gov.uk) and email the details to us. Probably with a written statement explaining the reasons for the change and the reasons that you believe changing the condition wouldn't undermine the reasons it was included in the first place.

Having spoken to a colleague a bit more about this – it may be possible to remove the condition entirely – if in your written statement you could demonstrate and commit to a set of measures that would meet the reasons for the condition. We would potentially suggest an alternative condition, but those discussions could be had when the application is in.

Ownership Certificates and Agricultural Land Declaration

Certificates under Article 14 - Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended)

Please answer the following questions to determine which Certificate of Ownership you need to complete: A, B, C or D.

Is the applicant the sole owner of all the land to which this application relates; and has the applicant been the sole owner for more than 21 days?

Yes

No

Can you give appropriate notice to all the other owners/agricultural tenants? (Select 'Yes' if there are no other owners/agricultural tenants)

Yes

No

Certificate Of Ownership - Certificate B

I certify/ The applicant certifies that:

I have/The applicant has given the requisite notice to everyone else (as listed below) who, on the day 21 days before the date of this application, was the owner* and/or agricultural tenant** of any part of the land or building to which this application relates; or

The applicant is the sole owner of all the land or buildings to which this application relates and there are no other owners* and/or agricultural tenants**.

* "owner" is a person with a freehold interest or leasehold interest with at least 7 years left to run.

** "agricultural tenant" has the meaning given in section 65(8) of the Town and Country Planning Act 1990

Name of Owner/Agricultural Tenant:

***** REDACTED *****

House name:

Oken's House

Number:

20

Suffix:

Address line 1:

Castle Street

Address Line 2:

Town/City:

Warwick

Postcode:

CV34 4BP

Date notice served (DD/MM/YYYY):

17/01/2024

Person Family Name:

Person Role

- The Applicant
 The Agent

Title

Dr

First Name

Michael

Surname

Hornsby

Declaration Date

17/01/2024

- Declaration made

Declaration

I/We hereby apply for Removal/Variation of a condition as described in the questions answered, details provided, and the accompanying plans/drawings and additional information.

I/We confirm that, to the best of my/our knowledge, any facts stated are true and accurate and any opinions given are the genuine opinions of the person(s) giving them.

I/We also accept that, in accordance with the Planning Portal's terms and conditions:

- Once submitted, this information will be made available to the Local Planning Authority and, once validated by them, be published as part of a public register and on the authority's website;
- Our system will automatically generate and send you emails in regard to the submission of this application.

I / We agree to the outlined declaration

Signed

Michael Hornsby

Date

16/02/2024