

Application No: [W 15 / 1773](#)

Town/Parish Council: Warwick
Case Officer: Rob Young

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**Kentucky Fried Chicken, Leamington Shopping Park, Tachbrook Park
Drive, Warwick, CV34 6RH**

Demolition of the existing KFC restaurant and erection of a Class A1 bulky goods
retail unit (Unit P) and staff parking area FOR Ignis UK Property Fund

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

RECOMMENDATION

Planning Committee are recommended to GRANT planning permission, subject to
conditions.

DETAILS OF THE DEVELOPMENT

The proposed development has two elements. Firstly, the application proposes to
demolish the existing KFC restaurant unit (278 sq m, Use Class A3) and replace
this with a bulky goods retail unit (Use Class A1) with a ground floor area of 697
sq m and a mezzanine floor of 418 sq m (1,115 sq m GIA in total). Secondly it is
proposed to create 25 staff parking spaces within the service yard. These spaces
would be created within an existing area of landscaping alongside the north-
western boundary of the site. Overall, taking account of alterations to the
internal road layout and parking to accommodate the bulky goods unit, there
would be a net increase of 15 parking spaces at the retail park.

THE SITE AND ITS LOCATION

The application relates to two separate parcels of land on Leamington Shopping
Park. The first parcel comprises the existing KFC unit towards the northern side
of the Shopping Park. This includes the existing building and land around which is
currently used as an access road and for car parking. The second parcel
comprises a section of the landscaping strip alongside the service yard on the
north-western edge of the Shopping Park. This area includes a number of small
trees.

The site is situated in an out-of-centre location in retail policy terms. The
surrounding area is predominantly commercial in character, with the Tachbrook
Park employment area adjoining the southern boundary of the site.

PLANNING HISTORY

Leamington Shopping Park was built in the 1980's as an out of town location for
bulky goods retailing. The Sainsbury's unit was reserved for food retailing and
the other units were for a restricted range of goods, designed to minimise

competition with the town centres. The goods to be sold included DIY and gardening goods, car accessories, floor coverings, self-assembly furniture, domestic electrical goods, all of these being bulky and unsuited to town centre retailing.

There were two applications in 1993 and 1994 (W/93/1173 and W/94/0540) to remove the retail restriction conditions, both of which were refused on grounds of the impact that the widening of the range of goods to be sold would have on the adjoining town centres. Both of these decisions were appealed and the appeals were allowed, for the sale of any non-food goods, as the Inspector considered that the town centres were capable of withstanding the additional competition. This remains the current position - the non-food part of the shopping park is subject to the following condition which permits the sale of any non-food goods:

Notwithstanding the provisions of Class A1 of the Town and Country Planning (Use Classes) Order 1987 the premises the subject of this permission shall not be used for the sale of food or other convenience goods.

The next significant applications were submitted in 2007 and 2008. Planning permission ref: W/07/1932 authorised the construction of a small new retail unit in the north-west corner of the site and the extension of the former Halfords car service bay to form a new retail unit (subsequently amended by planning permission ref: W/09/0959 which subdivided this into 5 smaller units – now known as units K, L, M, N and O). This additional floorspace was balanced by the demolition of a rear section of another unit (the former MFI unit, now known as Units C1, C2 and C3), which equalled the new floorspace.

In 2008 planning permission was granted for a further scheme for a range of alterations to the shopping park (Ref. W08/1149). The most significant part of the approved scheme, and the most pertinent to the assessment of the current application, was a proposal to demolish the front part of unit B and to replace this with 3 new units in the position of the existing garden centre. These units would have had a gross floorspace of 1,323 sq m.

The 2008 planning permission was not fully implemented. In particular, the 3 new units in the position of the garden centre have not been erected and the front part of Unit B has not been demolished. This part of the 2008 permission was superseded by a planning permission that was granted in 2012 (Ref. W12/1185) for external alterations to Unit B as part of its refurbishment to create a Debenhams store (retaining the front section that had previously been proposed to be demolished).

In 2011 planning permission was granted for a 100 sq m extension to unit J (Ref. W11/0458).

In 2013, a planning application was submitted for "Erection of 3 non-food retail units, enhancement of public realm and provision of 24 employee only car parking spaces" (ref. W/13/0859). The 3 retail units proposed in that scheme were in the same location as the four A3 units proposed in the current application. The Council advised that planning permission was to be refused on the grounds that the proposals failed the sequential and impact tests in the NPPF and the applicant subsequently withdrew the application.

Finally, in 2014, planning permission was refused for "Erection of 4no. restaurant (Use Class A3) units on site of former garden centre; demolition of existing KFC restaurant (Use Class A3) and its replacement by a bulky goods retail unit (Use Class A1); alterations to car parking and provision of 25 staff only car parking spaces" (Ref. W14/1205). There were two reasons for refusal. The first reason was based on concerns that the proposals were contrary to retail policy and would cause unacceptable harm to the vitality and viability of Leamington Town Centre. These concerns related to the adverse impact of the proposed A3 units rather than the A1 bulky goods unit. The second reason related to concerns that WCC Highways had raised about parking.

The applicant has appealed against the 2014 refusal and the appeal is due to be the subject of a Hearing scheduled for 9 December. The applicant has also applied for costs against the Council in relation to that appeal. The applicant has advised that the appeal and costs application will be withdrawn if planning permission is granted for this revised scheme.

RELEVANT POLICIES

- The 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)
- DP3 - Natural and Historic Environment and Landscape (Warwick District Local Plan 1996 - 2011)
- DP6 - Access (Warwick District Local Plan 1996 - 2011)
- DP8 - Parking (Warwick District Local Plan 1996 - 2011)
- DP7 - Traffic Generation (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)
- SC0 - Sustainable Communities (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)

The Emerging Local Plan

- DS1 - Supporting Prosperity (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- DS3 - Supporting Sustainable Communities (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- DS5 - Presumption in Favour of Sustainable Development (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- PC0 - Prosperous Communities (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TC1 - Protecting and Enhancing the Town Centres (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TC2 - Directing Retail Development (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TC9 - Royal Leamington Spa Restaurant and Cafe Quarter (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)

- 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)
- TR1 - Access and Choice (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TR2 - Traffic Generation (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TR3 - Transport Improvements (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TR4 - Parking (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- HS7 - Crime Prevention (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- CC2 - Planning for Renewable Energy and Low Carbon Generation (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- CC3 - Buildings Standards Requirements (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- DM1 - Infrastructure Contributions (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)

Guidance Documents

- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Vehicle Parking Standards (Supplementary Planning Document)
- National Planning Policy Framework

SUMMARY OF REPRESENTATIONS

Warwick Town Council: Object on the following grounds:

- contrary to retail policy and adverse impact on the town centres; and
- insufficient parking.

Lasalle Investment Management (owners of Royal Priors Shopping Centre): Object on the grounds that the proposals would have an adverse impact on the town centre and on the grounds that there a number of sequentially preferable sites within the town centre. Raise concerns about trade diversion and the impact on planned investment in the town centre. Point out that the development will allow for the relocation of Halfords and therefore frees up unrestricted A1 floorspace elsewhere on the Park.

WCC Ecology: Recommend notes regarding bats and nesting birds. Advise that existing trees / hedgerows should be protected by a suitable buffer zone.

ASSESSMENT

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

- retail policy and the impact on the vitality and viability of town centres;
- the impact on the character and appearance of the area;
- car parking and highway safety; and
- impact on trees.

Retail policy and the impact on the vitality and viability of town centres

The NPPF sets out 13 key principles for delivering sustainable development (paras. 18-149). One of these principles relates to ensuring the vitality and viability of town centres. When considering applications for main town centre uses that are not in an existing centre and not in accordance with an up-to-date Local Plan, the NPPF requires local planning authorities to apply a sequential test (paragraph 24). The sequential approach requires applications for main town centre uses to be located in town centres first, then in edge-of-centre locations and only if suitable sites are not available should out-of-centre sites be considered.

In considering the potential impact of proposals, the NPPF (paragraph 26) states that this should include an assessment of:

- the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.

Paragraph 27 of the NPPF states that, where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused.

The relevant Local Plan policy for out-of-centre retail development is Policy UAP3. This is consistent with the NPPF, with the exception of the inclusion of "need" as a standalone test. The NPPF does not include a standalone "need" test.

In considering this issue in relation to the previous application, there were significant concerns about the impact of the proposed A3 units. It was considered that these would directly compete with the size and type of restaurants that are commonly found in town centres. It was also considered that granted planning permission for that scheme would have drawn prospective occupiers away from town centre sites. However, there were no such concerns in relation to the bulky goods unit. Indeed, it was specifically noted in the Officer Report for that application that "the bulky goods unit may well be considered to be acceptable on the application site if proposed in isolation".

The Council's retail planning consultants have advised that, subject to a suitable condition to restrict the range of goods sold, the proposed bulky goods would not cause unacceptable harm to the vitality and viability of town centres. They also advise that the proposals would not cause undue harm to existing, committed, and planned public and private investment in town centre. Given the proposed restrictions, a bulky goods unit would primarily compete with other out-of-centre stores or on-line retailers and would attract occupiers that would not be interested in taking up a unit within the town centre.

The objection from the owners of the Royal Priors notes that the proposed scheme would free up unrestricted A1 floorspace elsewhere within the Shopping

Park by facilitating the relocation of Halfords. That would enable town centre retailers to occupy the Halfords Unit. However, a refusal of planning permission could not be justified on these grounds because the application proposes a speculative bulky goods unit which may be occupied by any bulky goods retailer. Consequently a refusal on these grounds would be unsound because it would rely on various assumptions about the future of one retailer that would not be based on any tangible evidence. Furthermore, Halfords or any other existing retailer could relocate regardless of whether an alternative unit was provided within the shopping park. There are already alternative units nearby that could become available to facilitate such a relocation. The fact is that the remainder of the Shopping Park has an unrestricted A1 planning permission and there is nothing that the Council can do to change that.

Turning to the issue of the sequential test, given the particular requirements of a bulky goods retailer, it is acceptable that there are no suitable sites currently available within or on the edge of the town centre. This takes account of the size of the proposed unit and the constraints affecting the few sites that may otherwise have been considered to be potentially suitable. This is based on the situation as it stands at present in relation to town centre sites and does not necessarily mean that the same conclusions would apply if other out-of-centre retail proposals were to be submitted in the future.

For the above reasons it has been concluded that the proposals satisfy the sequential and impact 'tests' set out in the NPPF and that the proposals would not cause unacceptable harm to the vitality and viability of Leamington Town Centre. The proposals are also considered to be in accordance with Local Plan Policy UAP3.

Impact on the character and appearance of the area

The proposed bulky goods unit would be visible from outside the park, notably from Europa Way. However, it would not appear unduly prominent, being situated alongside existing buildings of a similar scale as well as being set back behind established landscaping along the boundary. The units would be of an appropriate design for this location, similar to the design of the existing buildings on the shopping park. Therefore it is considered that the proposals would have an acceptable impact on the character and appearance of the area.

Car parking and highway safety

Comments are awaited from WCC Highways. However, they withdrew their objections to the previous scheme for this site, and that scheme included more development (the A3 units). As this is a smaller scheme, it is assumed that WCC Highways will maintain their position of no objection. Therefore the proposals are considered to be acceptable from a highway safety point of view.

WCC Highways also considered the issue of car parking in their comments on the previous scheme. They noted that the current parking provision (505 spaces) was already below the maximum specified in the Council's Parking Standards (798 spaces). With the additional parking spaces proposed, the number of spaces would increase to 520, with the maximum standard increasing to 848 space as a result of the additional floorspace. However, they pointed out that the parking standards were set as maximums, indicating that a lower provision could be considered to be acceptable if this could be demonstrated to be sufficient. The

applicant submitted parking surveys to show existing levels of occupancy and WCC Highways accepted that this demonstrated that a level of parking provision would be acceptable. Given that the current scheme proposes less development with the same level of parking provision, it is considered that the proposals remain acceptable from a parking point of view.

Impact on trees

A number of trees would be removed to make way for the proposed staff parking spaces. However, these are all small trees that date from the original landscaping scheme for the shopping park. The proposed parking spaces would only amount to a minor incursion into the landscaping belt along the site boundary with Europa Way, with a 15m wide belt of trees and shrubs retained alongside the new parking spaces. Consequently there would be no material reduction in the screening provided by the landscape belt. Therefore, subject to suitable replacement trees being planted (which could be conditioned), the proposals would be acceptable in terms of the impact on trees.

Other matters

It is proposed to install solar photovoltaic panels to meet 10% of the predicted energy requirements of the development. This would meet the requirements of Local Plan Policy DP13 and the associated SPD.

The application site is situated well away from the nearest dwellings and therefore the proposals would not have a significant impact on the living conditions of any dwellings.

CONCLUSION / SUMMARY

The proposals meet the sequential and impact 'tests' set out in the NPPF and would have acceptable impact on the vitality and viability of Leamington Town Centre. The proposals are also considered to be acceptable in terms of the impact on trees, car parking and highway safety. Therefore it is recommended that planning permission is granted.

CONDITIONS

- 1 The development hereby permitted shall begin not later than three years from the date of this permission. **REASON:** To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawing(s) AAA4815-A-P16-04, AAA4815-A-P16-05, AAA4815-A-P16-06, AAA4815-A-P16-07, AAA4815-A-P16-08, AAA4815-A-P16-09, AAA4815-A-P16-10 & AAA4815-A-P16-14, and specification contained therein, submitted on 27 October 2015, except as required by condition 3 below. **REASON :** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.

- 3 Notwithstanding the details shown on the approved plans, no development shall commence until details of the mezzanine layout have been submitted to and approved in writing by the local planning authority. The development shall be carried out in strict accordance with the approved details. **REASON :** For the avoidance of doubt and to ensure that the development does not harm the vitality and viability of town centres, in accordance with Policy UAP3 of the Warwick District Local Plan 1996-2011.
- 4 The development hereby permitted shall only be undertaken in strict accordance with details of both hard and soft landscaping works which have been submitted to and approved in writing by the local planning authority. Details of hard landscaping works shall include boundary treatment, including full details of the proposed boundary walls, railings and gates to be erected, specifying the colour of the railings and gates; footpaths; and hard surfacing, which shall be made of porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area. The hard landscaping works shall be completed in full accordance with the approved details within three months of the first occupation of the development hereby permitted; and all planting shall be carried out in accordance with the approved details in the first planting and seeding seasons following the first occupation. Any tree(s) or shrub(s) which within a period of five years from the completion of the development dies, is removed or becomes in the opinion of the local planning authority seriously damaged, defective or diseased shall be replaced in the next planting season with another of similar size and species, unless the local planning authority gives written consent to any variation. All hedging, tree(s) and shrub(s) shall be planted in accordance with British Standard BS4043 – Transplanting Root-balled Trees and BS4428 – Code of Practice for General Landscape Operations. **REASON:** To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies DP1, DP2 and DP3 of the Warwick District Local Plan 1996-2011.
- 5 No construction will be undertaken until a Construction Management Plan (to include a Construction Phasing Plan and HGV Routing Plan) has been submitted to and approved in writing by the local planning authority. The development shall be carried out in strict accordance with the Construction Management Plan approved under this condition. **REASON:** In the interests of highway safety, in accordance with Policy DP6 of the Warwick District Local Plan.
- 6 The retail unit hereby permitted shall not be occupied unless and until the cycle parking, car parking and manoeuvring areas indicated on the approved drawings have been provided and thereafter those areas shall be kept marked out and available for such use at all times. **REASON:** To ensure adequate off-street car parking, cycle parking and servicing facilities in the interests of both highway safety and visual amenity in accordance with Policies DP1, DP2 & DP8 of the Warwick District Local Plan 1996-2011.
- 7 No HGV movements associated with the construction of the

development hereby permitted shall take place on Monday to Friday between 0730 hours and 0900 hours or between 1630 hours and 1800 hours. **REASON:** In the interests of highway safety, in accordance with Policy DP6 of the Warwick District Local Plan.

- 8 Prior to occupation of the retail unit hereby permitted, a Travel Plan for that unit shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall set out detailed targets, measures and incentives to promote and encourage sustainable transport use and reduce the reliance on car based trips by staff to the site. The Travel Plan shall be implemented in strict accordance with the approved details. **REASON:** In the interest of encouraging the use of alternative modes of transport with the aim of creating a more sustainable development in accordance with Policies SC12 & SC4 of the Warwick District Local Plan 1996-2011.
 - 9 The total sales area of the retail unit hereby permitted shall not exceed 893 sq m. The retail unit shall be used as a single retail unit and shall not be subdivided into 2 or more separate retail units. **REASON :** To protect the vitality and viability of the town centres, in accordance with Policy UAP3 of the Warwick District Local Plan.
 - 10 The premises hereby permitted shall not be used for the sale of food or other convenience goods. The sale of clothing, shoes, sports goods, fashion accessories, jewellery and home furnishings (other than beds and furniture) shall be allowed in no more than 15% of the permitted sales area. **REASON :** To protect the vitality and viability of the town centres, in accordance with Policy UAP3 of the Warwick District Local Plan.
 - 11 The development hereby permitted shall not be first occupied unless and until the renewable energy/fabric first scheme submitted as part of the application has been wholly implemented in strict accordance with the approved details. The works within this scheme shall be retained at all times thereafter and shall be maintained strictly in accordance with manufacturers specifications. **REASON:** To ensure that adequate provision is made for the generation of energy from renewable energy resources or to achieve carbon savings in accordance with the provisions of Policy DP13 in the Warwick District Local Plan 1996-2011.
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