

**Application No:** [W 17 / 1470](#)

**Town/Parish Council:** Warwick  
**Case Officer:** Rob Young

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**Expiry Date:** 08/11/17

**Land at Leamington Shopping Park, Tachbrook Park Drive, Warwick,  
CV34 6RH**

Demolition of former garden centre structures and erection of three Class A1 retail units, provision of associated service yard and plant areas, reconfiguration and enlargement of parking areas, provision of trolley bay storage shelters and associated landscaping. FOR Standard Life Investments UK Real Estate Fund  
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This application is being presented to Committee as 5 or more letters of support have been received and it is recommended for refusal.

**RECOMMENDATION**

Planning Committee are recommended to refuse planning permission for the reasons stated at the end of this report.

**DETAILS OF THE DEVELOPMENT**

The application proposes the erection of 3 retail units. These comprise a 1,662 sq m foodstore and 2 non-food retail units measuring 455 sq m and 372 sq m. The foodstore is proposed to be occupied by M&S. The application does not identify any prospective occupiers for the non-food retail units.

The proposals also include the extension of the service yard to the rear of the site onto an existing area of soft landscaping alongside the southern boundary. This will involve the removal of a number of trees. It is also proposed to mark out additional staff parking spaces within the rear service yard.

The following amendments have been made during the course of this application:

- design of boundary fencing changed;
- details of replacement tree planting provided;
- drainage details provided in response to an objection from WCC Flood Risk Management;
- further highways information submitted in response to an objection from WCC Highways; and
- further supporting information submitted in relation to retail policy.

**THE SITE AND ITS LOCATION**

The application relates to land on Leamington Shopping Park. This comprises the garden centre of a former DIY store that occupied Unit B1, together with the service yard to the rear of the garden centre. The site also takes in the

landscaping strip alongside the service yard, which 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 3 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.

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.

Finally, in 2015 planning permission was granted for "Demolition of the existing KFC restaurant and erection of a Class A1 bulky goods retail unit (Unit P) and staff parking area" (Ref. W15/1773).

## **RELEVANT POLICIES**

- National Planning Policy Framework
- SC0 - Sustainable Communities (Warwick District Local Plan 2011-2029)
- DS1 - Supporting Prosperity (Warwick District Local Plan 2011-2029)
- DS3 - Supporting Sustainable Communities (Warwick District Local Plan 2011-2029)
- DS5 - Presumption in Favour of Sustainable Development (Warwick District Local Plan 2011-2029)
- PC0 - Prosperous Communities (Warwick District Local Plan 2011-2029)
- TC1 - Protecting and Enhancing the Town Centres (Warwick District Local Plan 2011-2029)
- TC2 - Directing Retail Development (Warwick District Local Plan 2011-2029)
- TC4 - Chandos Street Town Centre Development Allocation (Warwick District Local Plan 2011-2029)
- BE1 - Layout and Design (Warwick District Local Plan 2011-2029)
- BE3 - Amenity (Warwick District Local Plan 2011-2029)
- TR1 - Access and Choice (Warwick District Local Plan 2011-2029)
- TR2 - Traffic Generation (Warwick District Local Plan 2011-2029)
- TR3 - Parking (Warwick Local Plan - 2011-2029)
- HS7 - Crime Prevention (Warwick District Local Plan 2011-2029)
- CC2 - Planning for Renewable Energy and Low Carbon Generation (Warwick District Local Plan 2011-2029)
- CC3 - Buildings Standards Requirements (Warwick District Local Plan 2011-2029)
- DM1 - Infrastructure Contributions (Warwick District Local Plan 2011-2029)

- FW1 - Development in Areas at Risk of Flooding (Warwick District Local Plan 2011-2029)
- FW2 - Sustainable Urban Drainage (Warwick District Local Plan 2011-2029)
- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Vehicle Parking Standards (Supplementary Planning Document)

## **SUMMARY OF REPRESENTATIONS**

**Town Council:** Object on the following grounds:

- access is already very poor;
- the signage is confusing;
- there is insufficient parking proposed for staff;
- at the weekend car parking is insufficient and this affects air quality with cars driving around trying to find a space; and
- the District Council should carry out a town centre viability assessment as the Town Council are very concerned about the impact on the town centre.

**Public response:** 9 comments in support and 3 neutral comments have been received, making the following points:

- an M&S foodhall is an excellent idea;
- this will provide more competition in food retail;
- the M&S foodhall in the town centre is too small with too narrow a range;
- the Sainsburys exit onto Tachbrook Park Drive should be made an entrance as well in order to relieve traffic on the roundabout;
- the development of this site is required to complete the development;
- the development will provide further jobs;
- the range of shopping venues needs to continue to develop and expand to meet the demand from the massive expansion of homes in this area;
- various suggestions for the types of shops that people would like to see on the site; and
- there should be a "keep open" clause for the existing M&S Foodhall in Warwick Town Centre in addition to the one proposed for the Leamington Town Centre store.

**BID Leamington:** Object on the following grounds:

- harm to the vitality and viability of Leamington Town Centre;
- the two non-food units are equivalent in size to 23 units on Park Street;
- there are existing vacancies within the town centre that could accommodate the two non-food units;
- this scheme could attract non-food retailers that could otherwise be accommodated or compete with those in the town centre, drawing footfall away from the town;
- the proposals are contrary to Local Plan Policy TC2 and the NPPF and the "Town Centre First" policy approach;
- the comments in support of the proposals support the suggestion that this scheme would divert users from the town centre;
- the two year commitment of M&S to their town centre stores is acknowledged, however BID would support proposals to strengthen and improve their proposition in the town centre;

- the 2015 Homebase appeal decision supports the view that the diversion of any footfall would be detrimental to the town centre economy at this time;
- further out of town retail development, particularly non-food, would exacerbate existing pressures on town centre businesses who are already suffering from the rise of out of town shopping destinations and online retailing; and
- note that they may have been able to view this proposal differently had the food and non-food parts been put forward as separate applications.

**Leamington Chamber of Trade:** Whilst the Chamber supports a healthy trade environment in the whole of the Leamington area, we are still disappointed at the lack of investment in the town centre. This continued push of customers to out-of-town shopping parks has a direct, detrimental effect on our high street stores and the independent shops of which Leamington is so proud. If the town centre is to thrive, or even survive, it must attract major stores and employers which require suitable premises, planning support and parking facilities.

**WCC Highways:** Object due to concerns about the methodology used to derive the proposed vehicle trip rates; concerns about the timing of the manual turning counts; a requirement to model the impact on the two adjacent roundabouts in the Warwick Area Wide Model in Paramics; a concern that a vehicle would have to undertake a jack-knifing manoeuvre to turn within the service area; and a requirement for clarification on how the targets for the reduction in single occupancy vehicle trips by staff members have been derived.

**WCC Flood Risk Management:** No objection, following the receipt of further drainage information. Recommend a condition to require full drainage details.

**WDC Tree Officer:** No objection.

## **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;
- drainage and flood risk; and
- impact on trees.

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

The application was accompanied by a Retail Impact Assessment which concludes that the proposed development would not result in any significant adverse impact on nearby centres and passes the sequential test. The applicant has also submitted a draft Unilateral Undertaking which commits M&S to maintaining two stores in Leamington Town Centre for 2 years from the date of a grant of planning permission for the Leamington Shopping Park proposals.

The Council have appointed retail planning consultants (Carter Jonas) to verify the applicant's Retail Impact Assessment and to provide an independent assessment as to the compliance of the proposals with retail planning policy in the NPPF and Local Plan. Following is a summary of their conclusions.

In terms of the health of Leamington Town Centre, Carter Jonas advise that the evidence points to a centre that has strengths, but also weaknesses, some of which are a cause for concern. There is a need for new investment in order to provide both confidence and opportunities for retailers and other town centre occupiers and to help secure the centre's future. Carter Jonas also refer to a 2014 Retail Study which concluded that the outlook for Warwick Town Centre (in retail terms) was somewhat pessimistic.

The application site is situated within an out-of-centre location. Therefore any proposals for new retail development in this location are required to pass the sequential and impact tests as set out in Local Plan Policy TC2 and the NPPF.

Dealing first with the sequential test, Carter Jonas advise that the proposed comparison floorspace could, with flexibility, be accommodated within vacant units within Leamington Town Centre, or alternatively within the Talisman Square scheme within Kenilworth Town Centre. Furthermore, they advise that insufficient information has been submitted to demonstrate why the M&S Food Hall could not be accommodated within a redevelopment scheme at Chandos Street within Leamington Town Centre.

Turning to the impact test, Carter Jonas consider that the approval of the application would run the risk of harming shopper, retailer, developer and investor confidence in Leamington Town Centre, and in particular the prospects for successfully realising the Chandos Street car park allocation (Local Plan Policy TC4). Similarly approval of the application could harm the prospects of the Talisman Square scheme proceeding in Kenilworth Town Centre. As a result the proposals fail the impact test.

With regard to M&S's commitment to maintain two stores in Leamington Town Centre for 2 years, this is of limited benefit due to the short timeframe that the assurance covers. Furthermore, as worded, no minimum floorspace is set out for those existing stores and therefore the commitment would not prevent M&S from down-sizing their existing stores within the 2 year period. This is a concern because Carter Jonas advise that the existing M&S foodstore on Parade is an important driver of pedestrian footfall in this part of the centre. M&S is one of the stronger retail brands (both food and non-food) that helps to attract shoppers to a centre, and in turn provides confidence for other retailers and investors. It is also notable that the commitment does not cover the M&S foodstore in Warwick Town Centre.

The applicant has suggested that the area of the authorised garden centre (1,050 sq m) could be discounted against the application proposals. However, the garden centre area is open to the elements rather than covered floor space within a physical unit. As a result there is no credible fall-back position in terms of retail floorspace in this regard.

As the proposals fail both the sequential and impact test, it has been concluded that the application is contrary to Local Plan Policy TC2 and retail policy in the NPPF. The proposals would cause unacceptable harm to the vitality and viability of the town centres within the District.

Impact on the character and appearance of the area

The proposed units would be of a similar design to the existing units on the shopping park. This is considered to be appropriate for this predominantly commercial area and is also in keeping with nearby development on Tachbrook Park to the rear of the site. Furthermore, the revised design of boundary fence is considered to be more appropriate for this location than the palisade design that was originally proposed. Therefore it has been concluded that the proposals would have an acceptable impact on the character and appearance of the area.

#### Car parking and highway safety

The Highway Authority have objected to the application on a number of grounds. This includes concerns about the methodology used to derive the proposed vehicle trip rates as well as concerns about the timing of the manual turning counts. The Highway Authority also set out a requirement to model the impact on the two adjacent roundabouts in the Warwick Area Wide Model in Paramics and seek clarification on how the targets for the reduction in single occupancy vehicle trips by staff members have been derived. In addition they are concerned that a vehicle would have to undertake a jack-knifing manoeuvre to turn within the service area.

Discussions are ongoing between the applicant's highway consultant and the Highway Authority in relation to these issues. Further survey work is also in the process of being undertaken. An update on this matter will be provided in the addendum report to Committee.

Nevertheless, based on the information that is current available, the proposals are considered to be unacceptable in terms of car parking and highway safety. The proposals are therefore considered to be contrary to Local Plan Policies TR1, TR2 and TR3.

#### Drainage and flood risk

A Surface Water Drainage Strategy has been submitted in response to an objection from WCC Flood Risk Management. Following receipt of this Strategy, WCC Flood Risk Management have removed their objection. Therefore the proposals are considered to be acceptable from a drainage and flood risk point of view.

#### Impact on trees

A number of trees would be removed to make way for the proposed alterations to the service yard. However, these are all small trees that date from the original landscaping scheme for the shopping park. Furthermore, they are not prominent in views from public vantage points and details of suitable replacement planting have been provided. Therefore, subject to a condition to require the implementation of this replacement planting, the proposals would be acceptable in terms of the impact on trees.

#### Other matters

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 do not satisfy the sequential or impact 'tests' set out in the NPPF and Local Plan Policy TC2 and would cause unacceptable harm to the vitality and viability of town centres within the District. Furthermore the applicant has failed to submit sufficient information to demonstrate that the proposals would not have unacceptable impacts in terms of increased traffic congestion, insufficient parking, insufficient servicing space and subsequent harm to highway safety. Therefore it is recommended that planning permission is refused.

## **REFUSAL REASONS**

- 1 Policy TC2 of the Warwick District Local Plan sets out a sequential approach to the location of new retail development, with a preference for town centre and then edge of centre locations. Evidence of the impact on the retail area of the town centre is required where the proposal is above 500 sq m. This accords with the sequential and impact test in the NPPF.

The application site is situated in an out-of-centre location. There are sequentially preferable sites within Leamington and Kenilworth Town Centres that are available and suitable for the development proposed. Therefore the proposals fail the sequential test.

In terms of impact, the proposals would harm shopper, retailer, developer and investor confidence in nearby town centres. Therefore the proposals also fail the impact test and would cause unacceptable harm to the vitality and viability of nearby town centres.

The proposals are therefore considered to be contrary to the aforementioned policies.

- 2 Policy TR1 of the Warwick District Local Plan 2011-2029 states (amongst other requirements) that development proposals will be expected to demonstrate that they are not detrimental to highway safety. Meanwhile Policy TR2 states that large-scale developments that result in the generation of significant traffic movements should be supported by a Transport Assessment, and where necessary a Travel Plan, to demonstrate the practical and effective measures to be taken to avoid the adverse impacts of traffic. Finally Policy TR3 states that development will only be permitted that makes provision for parking which, amongst other requirements, has regard to the location and accessibility of the site by means other than the private car and does not result in on-street parking detrimental to highway safety.

The Highway Authority have objected to the application on a number of grounds. This includes concerns about the methodology and modeling used in the Transport Assessment as well as concerns about the space available for turning within the service area. As a result, it has been concluded that the applicant has failed to submit sufficient information to demonstrate that the proposals would not have unacceptable impacts in terms of increased traffic congestion, insufficient parking, insufficient servicing space and subsequent harm to highway safety.

The development is thereby considered to be contrary to the  
aforementioned policies.

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