

## **Planning Committee: 13 January**

### **Observations received following the publication of the agenda.**

#### **Item 05 - W/24/1438 - Aldi, Shires Retail Park, Tachbrook Park Drive, Warwick**

##### **Updated Consultation Responses:**

Royal Leamington Spa Town Council: No objection (10/01/2026)

##### Public Response:

1 additional objection received making the following points:

- Pleased the narrowing of the visibility splay is addressed.
- Concerns regarding the painting of the pedestrian footway within the site sandwiched between reversing vehicles and vehicles entering the site. This may be common practice, but this does not make it safe or make pedestrians with children. The footway should run the other side of the parked cars away from vehicles entering the site then cross at the zebra crossing.
- The cycle store remains all the way across the carpark from the cycle/pedestrian entrance. It should be placed nearer to the entrance so that cycles do not have to cross the car park.

##### Update to Conditions 19 & 20

It is recommended to replace 'general use' to 'any use apart from deliveries' for the avoidance of doubt as this refers the customer and staff use which may occur from the Queensway access by vehicles and pedestrians.

#### **Item 06 - W/25/0816 - Land West of Firefly Road, Baginton**

##### **Updated Recommendation:**

Following the submission of further comments from National Highways and the Local Highway Authority, which confirm that they are satisfied that highway matters have been resolved, the Officer recommendation is updated as follows:

Planning Committee is recommended to grant planning permission, subject to a Section 106 legal agreement and the conditions listed at the end of this report.

Planning Committee is also recommended to delegate authority to the Head of Place, Arts and Economy to finalise the terms of the legal agreement including any variation to, or clarification of, the sums requested where the revised sums meet the relevant statutory test together with necessary alterations to the final list of conditions.

Should a satisfactory legal agreement not have been completed within 3 months of the date of Planning Committee or in the opinion of Officers, insufficient progress has been made within this period to warrant the agreement of additional time to complete the agreement, Planning Committee is recommended to delegate authority to the Head of Place, Arts and Economy to refuse planning permission on grounds that the proposal makes inadequate provision in respect of the issues the subject of that agreement.

### **Updated Consultation Responses**

A summary of the updated consultation responses from National Highways and the Local Highway Authority is provided below.

National Highways: No objection, subject to conditions.

#### *Traffic impact*

A further comparison of the trip generation between the latest proposals and those associated with the consented 2017 application has been completed. It is noted that the current proposals do have a significant reduction in terms of a number of trips. It was previously requested that the applicant demonstrate the impact of the updated trip generation in terms of how they are assigned onto the Strategic Road Network (SRN). In absence of this and to progress matters, National Highways have conducted a high-level distribution with the latest trip generation provided and note that the 30-vehicle threshold on the A45 is exceeded in both directions (eastbound and westbound).

Notwithstanding, given that the applicant still intends to deliver the previously agreed mitigation measures in full (noting the remaining agreed measures are on the local road network and not on the SRN), the previously undertaken improvements to access the site from the SRN and the fact there has been a significant reduction in trips generated at the site, National Highways are confident the development impact can be managed, and that no further modelling is required.

#### *Boundary matters*

As referenced in previous correspondence, the area of development land in the vicinity of Units 10 – 12 involves earthworks to create a plateau. These works are close to the A45 highway boundary and involve two small retaining walls (0.45m and 0.5m tall). Accordingly, the proposed earthworks require assessment in accordance with published standards for managing geotechnical risk. National Highways is content for this to be captured via an appropriate planning condition.

WCC Highway Authority: No objection, subject to conditions and a Section 106 obligation.

The additional information has satisfactorily addressed the concerns previously raised in respect of Trip Generation and Distribution, indicating that there will be an overall reduction in the proposed vehicle movements over that of the previous consent.

The Highway Authority is satisfied that the previous concerns relating to HGV access, cycle connectivity and bus service access have been addressed.

Concern has been raised over the possibility of additional vehicle movements within Baginton as a result of this proposal. There was an obligation as part of the original proposal for restricting access through the village. It is however considered that a more robust Access Restriction Strategy was agreed for the development at the land South of Coventry Airport (the Gateway South development), which included measures to restrict vehicle access with the objective that permanent access to and egress from the development be primarily from and to the A45 via the Whitley South grade-separated junction and that the other access points to the application site are managed to ensure that traffic from the development does not cause traffic problems on local roads adjacent to the Application Site. A Section 106 obligation for a similar strategy is recommended for the current proposal.

It is noted that the design of the western access from Rowley Road allows HGV's to make a right turn out of the development, whereas the eastern access is designed to prevent that manoeuvre. A condition is recommended to amend the design of the western access to a similar design of the eastern access.

#### Additional comments from County Councillor Ben Edwards

A summary of the comments made is provided as follows:

Following the latest consultation response from National Highways, WCC Highways now require time to assess the implications of this revised position and to determine our own evidence-based response. It therefore remains premature to recommend that planning permission be granted subject to outstanding highways input.

I am engaged in ongoing discussions with WCC Highways regarding the nature and scale of the necessary mitigation works. Although the details of these discussions remain confidential, the works under consideration may be substantial, may incur significant cost, and may require measures under section 278 in addition to section 106. These should be debated and seen by the committee.

The current recommendation, which presents a section 106 agreement as the sole mechanism to resolve highways issues, does not adequately reflect the potential extent of required interventions. These matters must be assessed fully and transparently before any delegation of authority is considered.

For these reasons, it is not appropriate for the Committee to delegate authority to finalise a legal agreement at this time when the fundamental highways position remains incomplete. The proposed fallback, which anticipates refusal after three months if insufficient progress is made, places the procedural burden on the authority rather than on the applicant, whose failure to provide adequate information has been the principal source of delay to date.

I therefore request that the application, in its current form, is deferred for a period of four weeks. This will allow time for the implications of National Highways' revised stance to be fully understood, for any further information required by WCC Highways to be provided, for the Officer recommendation to be updated, and for the matter to be discussed "in the round".

#### Additional Public Representation

One additional objection has been received. The objection does not raise any new issues and the matters raised have already been considered and addressed within the committee report.

#### **Officer assessment of highway matters**

The committee report identifies that certain aspects of the highways assessment were still to be concluded and that Officers would therefore provide further information to Members on the outstanding highway matters. This was reflected within the recommendation to the Planning Committee, with a recommendation to grant planning permission subject to highway matters being resolved to the satisfaction of National Highways and the Local Highway Authority.

Since the publication of the committee report, further responses have been received from both National Highways and the Local Highway Authority.

National Highways has changed its recommendation from deferral to conditional approval.

The Local Highway Authority raises no objection to the application, subject to conditions and a legal agreement.

In summary, the trip generation and traffic modelling for the proposed development has been found to be acceptable. The development would result in a significant reduction in trips in comparison to the extant Whitley South permission.

In addition, much of the highway mitigation strategy for Whitley South has already been delivered and the previously agreed mitigation package is still proposed to be delivered in full. This strategy was designed to accommodate a much higher volume of trips than currently proposed.

The Highway Authority has recommended restrictive measures to prevent an increase in HGV movements in Baginton. An access restriction strategy is to be secured through a S106 agreement, and a condition is recommended to revise the

western-most access on Rowley Road to limit the ability of HGVs to turn right out of the site (this access serves Units 4 and 5).

It is considered that the development would provide suitable connectivity for active travel and public transport. Moreover, funding for active travel and public transport provisions is to be secured through the Section 106 agreement. The applicant has committed to honouring the same financial obligations as the original Whitley South permission, including contributions for off-site cycling and walking infrastructure and bus service extensions.

To conclude, it is accepted that the proposed development would not adversely affect the operation of the local or strategic highway network. Measures to mitigate the highway impacts of the development and promote sustainable travel are to be secured through a S106 agreement, with these measures reflecting the requirements of the original Whitley South permission.

### **Planning obligations**

Based on the above highways assessment, the following measures/contributions are to be included as part of a Section 106 agreement, consistent with the original Whitley South permission.

- Off-site highway mitigation works (should any of the original works still need to be secured)
- Cycling/walking works fund
- Public transport infrastructure strategy
- Travel Plan and Travel Plan contribution
- Access Restriction Strategy
- S106 monitoring fee(s)

In addition to the above, all other obligations within the S106 relating to the original Whitley South permission will be comprehensively reviewed and re-secured where necessary.

### **Additional Conditions**

25. Prior to the commencement of any excavation works and landscaping adjacent to and/or affecting the A45 trunk road, a Geotechnical Assessment in accordance with DMRB CD 622 shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved Geotechnical Assessment and thereafter retained as such.

Reason: In the interests of highway safety and to accord with Policy TR1 of the Warwick District Local Plan 2011-2029.

26. Notwithstanding the submitted information, revised design details for the Western Access on Rowley Road shall be submitted to and approved in writing by the Local Planning Authority before development commences on Plots 4 and 5. The revised design details shall demonstrate how the access design will restrict

goods vehicles from making a right turn from the development. The Western Access shall be provided in accordance with the approved revised design details before Units 4 and 5 are first occupied and shall thereafter be retained as such.

Reason: In the interests of highway safety and to accord with Policy TR1 of the Warwick District Local Plan 2011-2029.

27. Each unit hereby approved shall not be occupied until the estate road(s) (including footways and cycleways) serving the unit has been laid out and substantially constructed in accordance with details that have first been approved in writing by the Local Planning Authority. The estate roads shall thereafter be retained as such.

Reason: In the interests of highway safety and to accord with Policy TR1 of the Warwick District Local Plan 2011-2029.

### **Item 07 - W/25/1061 - 60 Brandon Parade, Leamington Spa CV32 4JE**

#### Further clarification:

It is recognised that there will be noise as a result of the works. However, the Council's Environmental Health Officer notes that the applicants could use the outside space in association with the nursery without permission for the change of use. Therefore, the addition of the climbing frame would not result in further harm beyond that.

It is also noted that the use as a nursery would be covered by health and safety regulation, which would restrict the number of children using the outdoor space at any time, which the business would need to adhere to.

### **Item 08 - W/25/1451 - Three Horseshoes, Spring Hill, Bubbenhall**

Updated Public Response - 2 further support comments received.

#### Further clarification:

Whilst Officers note the benefits of the proposals for the business and local economy. The LPA are also mindful of the wider aims and objectives of the NPPF in supporting the sustainable growth and expansion of all types of business in rural areas, but not that this is not a green light for inappropriate development in the Green Belt. Paragraph 153 of the NPPF states that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. As per the Officer Report it is not considered that the proposals amount to very special circumstances and could be proposed by other rural businesses within the wider district. On this basis, the 'very special circumstances' which have been presented are given limited weight in the overall assessment and are not considered to clearly outweigh the harm identified.

Officers also note that the site operates as a viable business, without the requirement of the proposals.

#### Answers to Questions from Cllr Dickson

1. Can you please explain the basis of the calculation of 475sq m calculation? Is this the whole of the existing or original Three Horseshoes pub?

*475sqm is the whole of the original building, there has since been extensions some which benefit from permission and others that don't.*

2. The comments of WCC Highways are noted. How wide will be the reduced driveway access to the carpark, bearing in mind part of the driveway is already reduced in width to allow patrons of the pub to use either of the existing two sets of steps? Have there been any reported parking problems on Spring Hill and Pit Hill as a result of erection of these two gazebos? If new parking problems are anticipated, could WCC Highways propose parking restrictions on these two roads?

*The existing driveway access is 10.10m – minus 5m for a parked car = 4.9m. Which is already below the standard, we would usually expect 6m clearance. The proposed changes will reduce the access drive to 8.10m – minus 5m = 3.10m. I am not aware of any reported parking issues locally. It would be a decision for the highways authority if they wished to impose parking restrictions.*

3. Finally, with regard to the breach of the 45-degree rule, please confirm that the neighbours at Oak Cottage have a large established side hedge separating their from garden from the pub patio. Also is it the case that because the pub is to the north of Oak Cottage the amount of light 'lost' will be far lower than if Oak Cottage was to the north of the property. Please also confirm whether or not the owners of Oak Cottage have written in support of the application.

*The 45-degree rules considers both outlook and light. Whilst it is appreciated that there is an established hedge, this is not protected and could be removed at any time. The proposed gazebos are also significantly taller than the hedge. Therefore, would impact the light for the neighbouring residential use. The owners of Oak Cottage support the proposals.*

#### Update to Reasons for Refusal

Upon further checking of historic plans of the neighbouring property, it is noted that the development does not breach the 45-degree line. Therefore, reason for refusal number 4 has been omitted.

