

Planning Committee: 16 August 2011

Item Number:

Application No: W 10 / 1310

Town/Parish Council: Leamington Spa
Case Officer: Rob Young

Registration Date: 11/10/10

Expiry Date: 06/12/10

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Former Ford Foundry Site & Associated Landholdings, Old Warwick Road and Princes Drive, Leamington Spa

Hybrid planning application for a comprehensive mixed use development comprising demolition of former foundry buildings and: (i) Detailed planning application for structural landscaping and a retail store (including ancillary uses) (Use Class A1) and associated access, servicing, highway works, parking, footpaths, cycleways, public realm and other related works; and (ii) Outline planning application for offices (of up to 10,000sqm GIA including ancillary uses) (Use Class B1(a)), light industry (Use Class B1(c)) and/or storage and distribution (of up to 7,000sqm GIA) (Use Class B8), hotel (of up to 120 bedrooms) (Use Class C1), open space and associated access, servicing, parking including decked car park, public realm and other related works. FOR Trilogy (Leamington Spa) Ltd

This application is being reported to Planning Committee because it is recommended that planning permission be granted subjected to the completion of a legal agreement.

This application is being presented to Committee due to the number of objections and an objection from the Town Council having been received and because it is recommended that planning permission be granted subject to the completion of a legal agreement.

SUMMARY OF REPRESENTATIONS

COMMENTS ON ORIGINAL PLANS

Leamington Town Council: Object for the following reasons:

1. The Town Council wishes to endorse the serious concerns raised by the Cycleways Group particularly relating to the problems with combining pedestrian and cyclist traffic at the junction between Adelaide Road and Avenue Road, the entrance to and from the supermarket site and the crossroads at Lower Avenue and Old Warwick Road.
2. Whilst the Town Council welcomes the opportunity to develop the planned site and increase employment in the area, there is concern over the failure to conform to Warwick District Council's Supplementary Planning Guidance. The proposed separation of the office and light industrial developments from the retail development within a hybrid application does not ensure that the full plan will be executed. The Town Council requests that these developments be given equal status in one application at this planning stage.
3. The Town Council wishes the District Planners to give consideration to improvements at the York Road and Adelaide Road junction which should be

closed to traffic other than pedestrians and cyclists together with provision of a suitable crossing.

Warwick Town Council: No objection.

Public Response: 5 objections and 1 general observation were received, raising the following concerns:

- the plans are uninspiring and look like the development of an industrial estate;
- could we not develop buildings around a newly formed canal basin;
- the proposals will exacerbate traffic congestion on nearby junctions;
- the capacity of the A425 / A452 roundabout must be increased to accommodate traffic from the development;
- the pedestrian crossing on Princes Drive will cause traffic to queue back onto the roundabout creating a serious hazard;
- the problem of providing additional parking for the station is ignored;
- a large food store is not needed;
- a footpath link should be provided north across the railway into the residential area on the other side;
- York Road should be closed at one end to make it a cul-de-sac; and
- why not utilise the inherent resources of the current plant and turn it into an international recycling centre.

41 representations were submitted in support of the application (including 39 standard letters). A small number of these also make the following comments:

- appropriately timed traffic lights on the roundabout by the household recycling centre are essential;
- marked cycle / pedestrian lanes on pavements around the site are important;
- measures must be put in place to improve traffic safety at nearby junctions;
- more station car parking should be provided as part of the proposals;
- a direct opened up link from the station to the north / Avenue Road should be provided;
- the open space should not be open to the public due to possible anti-social behaviour;
- the design of the buildings could be improved;
- some residential accommodation should be provided on the site;
- a direct footpath should be provided from Avenue Road / Park Drive to the new development;
- traffic calming measures should be provided on Europa Way;
- traffic lights should not be introduced anywhere;
- the visual appearance of the land to the north of the station should be improved as part of these proposals; and
- there is more need for a supermarket north of the town centre.

The owners of part of the Former Goods Yard site on Station Approach have objected to the proposals because they fail to provide for the comprehensive redevelopment of the Station Area in accordance with the Development Brief. In particular, this development provides the proper mechanism to secure the relocation the bus depot to the Former Ford Car Park site. This is essential to secure the redevelopment of the Former Goods Yard site, which would otherwise be unviable.

Deeley Properties and Waitrose have submitted a joint objection. They are promoting a new store on the Fire Station site which is edge of centre and

therefore sequentially preferable to the out of centre Trilogy application. They raise the following concerns:

- lack of quantitative need to support the scale of retail floorspace proposed;
- failure to meet the qualitative need identified in the Warwick District Retail and Leisure Study (WDRLS) for a town centre foodstore;
- failure of the sequential test, because of the existence of an opportunity at the Fire Station site, which is suitable and viable for retail use, and will become available within a reasonable period of time;
- the significant adverse impact on planned investment in Leamington Town Centre;
- adverse impact on the vitality and viability of Leamington Town Centre and Warwick Town Centre;
- the uncertainty of phasing and delivery of the subsequent phases of the wider scheme, with no apparent planning or legal mechanism in place to ensure that Trilogy undertakes the non-retail components of the application; and
- the apparent conflict in stance taken by Strategic Perspectives in the WDRLS, compared with the tentative conclusions it reaches in its audit of the Trilogy application.

Sainsburys have objected to the proposals on the grounds of the scale of retail floorspace proposed, the provision of excessive car parking, the need to guarantee the delivery of the scheme as a whole and the impact on the surrounding road network. They also raise retail policy concerns similar to those listed in the Deeleys / Waitrose objection quoted above.

Leamington Society: Are enthusiastic about the proposals but object to two aspects of the application, the phasing and highway issues:

- the design of the corner office site should be an integral part of the current full application and not part of an outline application, otherwise a less satisfactory scheme may be proposed in the future;
- will the proposed road improvements do enough to alleviate traffic congestion in the area?;
- there is no mention of the wider road system around the development;
- the development offers the scope for convenient cycling and pedestrian links but these are not set out in the application;
- there should be a signalised crossing at or near the entrance to the supermarket; and
- no bus stops near the development are shown on the road plans.

Chiltern Railways: Request that any decision taken with regard to the Foundry site does not prejudice due to lack of remaining highway capacity the ability to implement the addition of new parking spaces for the station. Also note that the proposals would appear to be contrary to policy because they propose a major foodstore rather than an office-led mixed use development.

Cycleways: Raise various detailed concerns about the proposed cycle provision (see further comments under "Comments on Amended Plans" below).

Sustrans: Very pleased to see that the scheme increases the cycle provision for the area. One area that needs further consideration and improvement is the shared use cycleway crossing of the supermarket entrance. Suggest alternative treatments for this crossing.

Fire Service: No objection, subject to a condition to require details of water supplies and fire hydrants.

Police: I have liaised with the applicant in relation to the retail store and discussed the crime issues that may arise. Page 48 of the D&A statement shows that they have incorporated crime prevention measures and will be adopting Secured By Design and Park Mark. I look forward to working with the applicants in the future. I would recommend that the same principles are adopted for the outline application.

Network Rail: No objection in principle, but make detailed comments about the demolition and construction process due to the close proximity to the railway. They also outline the various permissions that will be required from them to undertake work in close proximity to the railway.

Severn Trent Water: No objection, subject to a condition to require drainage details.

Environment Agency: Initially objected to the proposed drainage strategy. However, following the submission of further information, they removed their objection, subject to conditions relating to contamination and to require the submission of a surface water drainage scheme.

British Waterways: Initially raised concerns about improving pedestrian and cycle links to the canal, improving landscaping along the canal, lighting and the impact on water quality in the canal. However, they have subsequently confirmed that further information submitted by the applicant has addressed their concerns.

WCC (Highways): Following extensive discussions with the Transport Consultants and Developer the Highway Authority are generally satisfied with the modelling and mitigation measures now proposed as a consequence of development. Therefore the Highway Authority's response to your consultation in regard to the above application is one of NO OBJECTION, subject to conditions and Section 106 requirements (as listed later in this report).

WCC (Archaeology): The planning application has been accompanied by an "Archaeology and Cultural Heritage Assessment" which has identified the known heritage assets which survive across and in the vicinity of the site, and the potential for previously unidentified assets to survive across this site. The report has concluded that there is a potential for both archaeological deposits to survive across those areas which have not been previously disturbed by the extensive foundations and underground tanks across the site, and for standing remains associated with the 19th century and 20th century Imperial Foundry. The proposed development is likely to have a significant negative impact upon any such heritage assets.

While I do not wish to object to the principle of development I do consider that some archaeological work should be required if consent is forthcoming. Therefore I recommend a condition to require an archaeological investigation to be carried out.

WCC (Ecology): Part of the site (to the north) is the Ecosite 06/36 'GWR Railway -Warwick to Banbury' which is also a potential Local Wildlife Site. There are no known records of protected species within the application site. However, there are records of notable and Local Biodiversity Action Plan (Local BAP) species namely native black poplars and perennial wall rocket within the application site. There are also records of protected and notable species, namely

bats, grass snake, otters, common toad, common frogs and hedgehogs within the surrounding area.

The County Ecologist goes on to make detailed comments including the following:

- raise concerns about the plant identification in the Extended Phase 1 Habitat Survey;
- the Warwickshire Biological Records Centre holds a record of perennial wall rocket (a rare or scarce species in Warwickshire) within the north area of the application site and this should be protected on site;
- agree that the existing buildings have a limited potential to support roosting bats but recommend that a precautionary approach is followed by imposing a condition to require the demolition works to be supervised by a bat ecologist;
- if demolition is delayed by a period of 12 months then a repeat inspection of all buildings will be necessary;
- a condition should be imposed to require trees that are to be removed to be inspected for bats prior to removal;
- recommend notes relating to bats, reptiles, amphibians, badgers, nesting birds, hedgehogs, perennial wall rocket, black poplars, indigenous planting, Japanese knotweed and contamination of watercourses;
- if works do not commence by September 2012 then further reptile surveys should be carried out;
- existing trees should be retained where possible;
- the black poplars should be retained if at all possible, or they should be translocated elsewhere within the site;
- biodiversity gain should be sought as part of this development;
- the proposals for an 'eco park' should be reconsidered - this area should be protected from works and be allowed to be naturally regenerated;
- raised concerns about non-native species proposed in the landscaping scheme;
- a combined ecological and landscape scheme should be required by condition;
- lighting should be limited; and
- green roofs should be considered for the buildings.

WCC (Physical Assets): We have been requested to provide a statement pertaining to our Warwick Street site and its availability for development. The County Council's current fire station site fronting Warwick Street, Leamington has been identified as a site available now for development. The County Council has completed a soft marketing exercise which ascertained the significant and real potential to release the existing facility to provide new and improved Fire and Rescue facilities on an alternative site. Furthermore, this was endorsed by the County Council's Cabinet on the 12th May 2011, which resolved to embark upon a formal procurement process based upon intelligence obtained from the soft market testing for a development partner to deliver new fire and rescue accommodation and facilities in Leamington to replace existing facilities

Publicly the County Council has stated that the buildings are aging and expensive to maintain, identified as not fit for purpose and the facility does not need to be located in a prominent and valuable town centre location. This is reinforced within the County Council's Fire and Rescue Service's Fire and Rescue Integrated Risk Management Plan 2010 - 2013 where there is a commitment to proposals for better ways of working, which states that there is a requirement for "Rationalisation of premises that will include a move to a new Service HQ". and a need for "The establishment and commissioning of a purpose built training

facility".

Environmental Health (Contamination): We are broadly in agreement with the recommendations and conclusions for remedial works provided in the remediation strategy report, we have however asked for further information on a couple of matters.

Following further discussions, Environmental Health have confirmed that they are happy with the contamination information that has been submitted and have recommended a condition to require a detailed remediation method statement to be submitted and agreed for the entire site prior to development.

Environmental Health (Environmental Protection): Due to concerns about noise potentially affecting nearby dwellings and occupants of the proposed hotel, recommended conditions to restrict delivery hours and the operation of refrigerated vehicles and to limit noise arising from plant and equipment on the site. Also raised concerns relating to air pollution from the combined heat and power plants, industrial processes, dry cleaning, cooking processes and vehicle emissions.

Following further discussions with the applicant and the submission of further information, raise no objection subject to the conditions recommended previously.

Environmental Health (Health & Safety): Initially raised concerns about the layout of the car park and service yard. However, following the submission of further information, they have confirmed that they do not object to the proposals.

Green Infrastructure Manager: Because of the poor access the area of public open space has limited benefit as a recreational resource for residents. Because of this we would be unlikely to agree to adopt it as part of a section 106 agreement. Whilst we have no particular issue with its layout the developer will need to make alternative arrangements for the long term maintenance of this space.

We have concerns about the landscaping proposals, particularly around the roundabout and nearby verges. The level of maintenance necessary to keep such a scheme looking attractive is essentially unsustainable, and not something that we could guarantee to be able to keep on top of.

Large canopy trees are important within urban areas for their cooling effect and mitigation against climate change. One of the few areas where there is space to plant such trees is in surface car parks. We would wish to see the tree planting across the car parks based on larger growing species, and covering a greater proportion of the car park. Ideally I would be looking to see a closed canopy by the time the trees reach maturity.

Achieving effective cover in this environment will depend to a large extent on the construction of the hard surfacing. Details should be provided of the ways in which a tree friendly below ground environment will be created as part of the engineering of the car park surface. It is noted that porous tarmac is proposed, which is welcome, but a greater attention is needed to solving the conflict between being load bearing and providing adequate opportunities for root growth.

Following the submission of details of a system of "silva cells" for the car park trees, the Green Infrastructure Manager has raised further concerns about relying on these being manually watered.

Waste Management: No objection.

COMMENTS ON AMENDED PLANS

Leamington Town Council: Object for the following reasons:

1. The Town Council reiterates its previous concerns raised, relating to the problems of combining pedestrian and cyclist traffic at the junction between Adelaide Road and Avenue Road, the entrance to and from the supermarket site and the crossroads at Lower Avenue and Old Warwick Road. In addition, the present convergence of two lane traffic into one lane along Princes Drive is a source of highway congestion that can only be exacerbated by the proposal.
2. Whilst the Town Council welcomes the opportunity to develop the planned site and increase employment in the area, there is concern over the failure to conform to Warwick District Council's Supplementary Planning Guide. The proposed separation of the office and light industrial developments from the retail development within a hybrid application does not ensure that the full plan will be executed. The Town Council requests that these developments be given equal status in one application at this planning stage.
3. The Town Council requests that consideration is given to improvements at the York Road and Adelaide Road junction which should be closed to traffic other than pedestrians and cyclists, together with provision of a suitable crossing.
4. The proposal for a retail store may negate potentially more economically advantageous development of the site.

Public Response: 3 representations in support have been received, reiterating some of the comments previously made.

2 objections have been received, raising the following concerns:

- concerns previously raised about highways and traffic reiterated;
- there is not sufficient demand in Leamington for such an office facility;
- the town centre has a number of long term empty retail units and the focus should be on developing those areas; and
- part of the site should be used for dwellings.

Cycleways: Object on the basis that the cycling provision on the front of the site is not satisfactory and is potentially dangerous. The radii of the corners on the mouth of the Western entrance to the site are too large and will allow traffic to enter the site at some speed. At the Eastern access the amendment has brought the eastbound cycleway on to the carriageway before the junction with provision of an ASL. We consider this to be a retrograde step. The left hand lane is a left turn lane. Thus cyclists cannot safely join the carriageway while traffic is moving or they will be in danger of traffic cutting across them to turn left. This will be compounded if that left lane is on a filter. It will be necessary for cyclists to cross in front of the left turn lane to get in front of the straight ahead lane in the ASL. We recommend making improvements to the original scheme for this entrance to make the crossing on the traffic signals more acceptable.

RELEVANT POLICIES

- Station Area Planning and Development Brief (Supplementary Planning Guidance - September 2008)
- 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)
- DP4 - Archaeology (Warwick District Local Plan 1996 - 2011)
- DP6 - Access (Warwick District Local Plan 1996 - 2011)
- DP7 - Traffic Generation (Warwick District Local Plan 1996 - 2011)
- DP8 - Parking (Warwick District Local Plan 1996 - 2011)
- DP9 - Pollution Control (Warwick District Local Plan 1996 - 2011)
- DP11 - Drainage (Warwick District Local Plan 1996 - 2011)
- DP12 - Energy Efficiency (Warwick District Local Plan 1996 - 2011)
- DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)
- SC2 - Protecting Employment Land and Buildings (Warwick District Local Plan 1996 - 2011)
- SC4 - Supporting Cycle and Pedestrian Facilities (Warwick District Local Plan 1996 - 2011)
- SC12 - Sustainable Transport Improvements (Warwick District Local Plan 1996 - 2011)
- SC13 - Open Space and Recreation Improvements (Warwick District Local Plan 1996 - 2011)
- SC14 - Community Facilities (Warwick District Local Plan 1996 - 2011)
- UAP2 - Directing New Employment Development (Warwick District Local Plan 1996 - 2011)
- UAP3 - Directing New Retail Development (Warwick District Local Plan 1996 - 2011)
- DAP3 - Protecting Nature Conservation and Geology (Warwick District Local Plan 1996 - 2011)
- SSP1 - Employment Allocations (Warwick District Local Plan 1996 - 2011)
- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Vehicle Parking Standards (Supplementary Planning Document)
- Open Space (Supplementary Planning Document - June 2009)

PLANNING HISTORY

There have been a significant number of previous planning applications relating to the various parts of the application site. Most of these relate to the main Foundry site, which was used as a foundry from before the introduction of the Planning system in 1948.

With regard to the car park of the foundry on the opposite side of Princes Drive, there have been a number of previous planning applications relating to the use of this as a car park and depot and for various structures including a new factory, coke store, underground diesel tank, substation, generator, an office / training building and storage building.

With regard to the triangular parcel of land to the north of the Foundry site on the opposite side of the railway line, there have been previous temporary planning permissions for the use of this land as open storage. There have also been previous permissions for a pump house and a fence on this land.

KEY ISSUES

The Site and its Location

The application relates to the former Ford Foundry site and associated landholdings situated to the south-west of Leamington Town Centre. The site occupies a prominent position alongside the roundabout junction between Myton Road / Old Warwick Road and Princes Drive / Europa Way.

The application site comprises 3 different parcels of land, separated by Princes Drive and the railway line. The largest of these is the site of the former Ford Foundry which has a long frontage to Princes Drive and Old Warwick Road. The railway runs along the northern boundary of the Foundry site and the eastern end of the site is bounded by the Spa Garage, Jewsons and Travis Perkins. The substantial foundry building occupies the western half of the site. This is a building of significant height and mass and comprises a largely modern industrial structure together with some smaller Victorian buildings on the Princes Drive frontage. The eastern part of the Foundry site is a concrete yard and there is a vehicular access into this from Old Warwick Road. There is a further vehicular access onto Princes Drive at the other end of the site.

The second part of the application site is the former car park for the Ford Foundry on the opposite side of Princes Drive. This part of the site is almost entirely covered in tarmac and is linked to the Foundry site by a bridge over Princes Drive. The Ford car park site adjoins the dwellings in Myton Crofts to the west and there is a landscaped bund alongside that boundary. The railway runs along the northern boundary and Princes Drive forms the western boundary. To the south the site adjoins the retail premises and car sales premises that front onto Myton Road. There is vehicular access to the Ford car park site from Princes Drive and Myton Road.

The final part of the application site is a triangular parcel of land to the north of the Foundry site on the opposite side of the railway line. This is an unmaintained area of land that contains self-set trees and scrub. This site has a frontage to Princes Drive and there are some small buildings at one corner of that frontage. The other boundaries of this site are enclosed by the railways lines that run to the north and south. There appears to have been informal vehicular access from Princes Drive into this site in the past.

With the exception of some temporary vehicle storage on the Ford car park site, the application site is currently unused.

Details of the Development

This is a hybrid planning application (part outline and part full planning application) for the demolition of the former foundry buildings and for a comprehensive mixed use development of the site. The detailed part of the application is for structural landscaping and a retail store (including ancillary uses) (Use Class A1) and associated access, servicing, highway works, parking, footpaths, cycleways, public realm and other related works. The outline part of the application is for offices (of up to 10,000sqm GIA including ancillary uses) (Use Class B1(a)), light industry (Use Class B1(c)) and/or storage and distribution (of up to 7,000sqm GIA) (Use Class B8), hotel (of up to 120 bedrooms) (Use Class C1), open space and associated access, servicing, parking including decked car park, public realm and other related works.

The applicant has stated that the proposed foodstore will be operated by Morrisons.

The following amendments have been made to the application:

- smaller office block omitted and replaced with larger site for hotel;
- siting and layout of hotel amended;
- off site highway works changed, including redesign of junction alterations;
- cycle route across site entrance amended;
- existing footbridge over Princes Drive confirmed to be removed;
- indicative planting within highway omitted;
- revised landscaping proposals including replacement black poplars;
- renewable energy proposals for foodstore changed from gas CHP to a combination of a heat recovery system on the refrigeration units and solar photovoltaic panels;
- confirmation that the area of open space is to be managed as a sustainable community woodland by a community interest company / group;
- confirmation of phasing of development; and
- Section 106 contributions and measures agreed:
 - £50,000 towards the cost of a new bus / rail interchange at Leamington Station;
 - £300,000 for the diversion of the X17 bus service to run along Old Warwick Road past the frontage of the site;
 - £15,000 towards the consultation process for a Traffic Regulation Order to reduce the speed limit on Old Warwick Road from 40mph to 30mph and to prohibit right turning movements from Park Drive to Princes Drive;
 - details of a marketing strategy for the office and light industrial / storage and distribution developments;
 - £32,000 to fund the Brunswick Employment Club for 2 years;
 - measures to increase the number of local people employed in the foodstore and during the construction of the foodstore; and
 - a contribution of £52,000 and implementation of measures to set up a community group to manage a sustainable community woodland on the triangle of land north of the railway line.

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 Leamington and Warwick Town Centres;
- loss of employment land;
- highway safety;
- the impact on the character and appearance of the area;
- the impact on the living conditions of nearby dwellings; and
- ecological issues and the provision and management of open space within the site.

Retail policy and the impact on the vitality and viability of Leamington and Warwick Town Centres

The application proposes a large foodstore in an out of centre location. The application was accompanied by a Town Centre and Retail Statement that concludes that there are no sequentially preferable sites (i.e. within or closer to a town centre) for the proposed foodstore and that the proposals would be in accordance with Local Plan Policy UAP3 and national policy in Planning Policy Statement 4: Planning for Sustainable Economic Growth and would not harm the vitality and viability of Leamington and Warwick Town Centres. The Council's retail consultant, Dr Steven Norris was requested to review the retail policy evidence. He concluded as follows:

- In terms of retail "need", there would appear to be sufficient capacity to support the food and non-food turnover of the proposed store at 2015 (although the "need" test has been removed as a standalone test in PPS4 and therefore a lack of need cannot be used as a reason for refusal).
- The applicant's sequential assessment is in compliance with PPS4. This concluded that there are no suitable and viable sequential sites in Warwick or Leamington that are currently available and support the scale and type of proposed retail floorspace, even assuming a 'flexible' approach to the scale, format, parking provision and scope for disaggregation on the part of the operator. Notwithstanding this, we advise that the Council is in a better position to provide a more detailed and up-to-date review of the current status and availability of the Travis Perkins site on Old Warwick Road and the Waterside Development Area. Both of these sites could, if found to be available and suitable for new retail uses, represent sequentially preferable locations for new retail development of the type proposed.
- The proposed foodstore will not harm any public and/or private sector investment currently planned or committed in Leamington Town Centre. The application for Clarendon Arcade currently being determined by the Council is planned to meet the capacity and need for new comparison goods floorspace in the town centre. It is specifically planned to meet the 'gaps' in the town's fashion offer and it will not compete 'like-for-like' with the proposed Morrisons foodstore.
- Based on the impact assessment that has been submitted, we do not consider that the forecast trade draw and impact on Leamington Town Centre of less than 1% would be "significant" enough to harm the overall vitality and viability of the town centre based on the health check evidence.
- In our judgement, the proposed store will not have an adverse impact on the overall health and performance of the Old Town's foodstores and convenience shops, as they primarily meet the day-to-day 'top-up' and specialist / ethnic food shopping needs of the local resident population, as well as workers and visitors in the local area. The Old Town may also benefit from potential 'linked trips' and 'spin-off' expenditure from the proposed Morrisons store, although we do not agree that the impact will be as significant as the applicant forecasts.
- In the case of Warwick both the Warwick District Retail and Leisure Study (WDRLS) and the applicant's assessments point to the fact that the town centre is 'fragile' in terms of its overall viability. In this context, we are not 'comforted' by the fact that the applicant's own analysis shows over a 50% increase in vacancy levels between 2008 and 2009. In our judgement the applicant's health check is limited and no update of the centre's vitality and viability has been carried out since May 2009. In the current economic climate we are concerned that Warwick's viability may have declined further over the last 19-20 months since the applicant's assessment and the potential impact of the proposed store could therefore be more significant.

Furthermore, the Sainsburys store in Warwick will be most vulnerable to impact from the proposed Morrisons and this will, in turn, result in a reduction in 'linked trips' to the town centre as a whole. Based on the limited and out-of-date evidence prepared by the applicant we do not consider that we are in a position to advise the Council on the likely effects of the proposed store on Warwick Town Centre. The applicant should be required to update the health check assessment for Warwick Town Centre.

If this above advice from Dr Norris is accepted, this leaves 2 issues that he has raised that need to be considered further. Firstly, with regard to the sequentially preferable sites that he identifies at Travis Perkins and the Waterside Development Area, the Council has no evidence to indicate that these sites will become available for a foodstore development within a reasonable time frame. Secondly, with regard to the health of Warwick Town Centre, the applicant has submitted a revised health check. This shows that vacancy levels in Warwick have fallen since 2009. In view of this, I do not consider that it can be demonstrated that the proposals would cause unacceptable harm to the vitality and viability of Warwick Town Centre.

The above advice from Dr Norris has been disputed in subsequent objections from Sainsburys and Deeleys / Waitrose. In addition to this, since the above advice was given, Waitrose have publicised proposals for a new foodstore on the Fire Station site. The Fire Station site is situated on the edge of the town centre and therefore it is a sequentially preferable site. Dr Norris was asked to comment on the availability, suitability and viability of the Fire Station site and to respond to the objections from Sainsburys and Deeleys / Waitrose.

Dr Norris has provided the following further advice:

- We still conclude that there would be sufficient forecast residual expenditure capacity in the District to support the proposed Morrisons convenience goods turnover and sales area at 2016.
- There is a qualitative need for a new 'anchor' foodstore in Leamington Town Centre to help underpin the town centre's overall retail offer. Therefore the critical consideration under both the Council's development plan policies and PPS4 is whether there is a sequentially preferable opportunity site either in or on the edge of the town centre.
- The Fire Station site is an edge-of-centre site as defined by PPS4 and is located approximately 100m from the nearest Primary Retail Frontage and benefits from good existing pedestrian linkages. There are two main retail planning considerations to be addressed in relation to this alternative proposal. First, whether the Fire Station site represents a suitable, viable and available location for a new foodstore. Second, whether the Morrisons proposal would have a significant adverse impact on planned investment in Leamington Town Centre.
- Availability - The assessment should be whether the fire station site is available now or is likely to become available for development within a reasonable period of time. The County Council have confirmed that they are committed to disposing of the Fire Station site, although an alternative site would need to be found and developed for the Fire Station to relocate to first. We consider that a 'best case' planning and development scenario could result in the site being developed within 3/4 years. However, it is clear that Deeleys / Waitrose have no ownership interest and there is no guarantee that they will secure ownership once it is placed on the open market.
- Suitability - The Fire Station site does appear to have the potential, in principle, to accommodate a new foodstore. Deeleys / Waitrose have gone as far as preparing some indicative plans for a store of circa 2,333 sq m net to

be served by 160 undercroft car parking spaces. The key consideration in this case is whether the potential for a store of circa 2,333 sq m net on the Fire Station site would satisfactorily meet the need / demand the proposal is intended to serve. It appears that the Fire Station site could potentially accommodate a store of an appropriate scale, although this will need to be subject to more detailed testing. We therefore conclude that the Fire Station site could possibly represent a suitable location for an appropriate scale of development and would help meet the need identified for an 'anchor' foodstore either in or on the edge of Leamington Town Centre. The Council should be aware, however, that we are not able to assess the more detailed factors relating to the suitability of the site for a new foodstore development including, for example, any physical, policy and environmental / design considerations that could impact on the successful delivery of the site for the proposed use, including (inter alia) access and traffic issues.

- Viability - There does appear to be significant market interest in the Fire Station site from foodstore operators and other parties. However, there are a number of 'unknowns' with regard to some of the market, cost and delivery factors that lead us to question the overall viability of the site for a foodstore. In our view one of the significant potential 'hurdles' to the viability of the site will be the cost and timescales involved in the relocation of the Fire Station and how this is structured as part of any disposal of the site.
- In summary, based on the available evidence, the current status of the Fire Station site and the uncertainty regarding the timing of its disposal and the likely purchaser, we cannot advise the District Council with any certainty that it is readily available, suitable and viable for a foodstore development.
- Notwithstanding our conclusions on suitability, viability and availability, the Council should be aware that by virtue of its location (approximately 100m from the town's primary shopping area) a foodstore on the Fire Station site will clearly have a greater potential to generate a higher proportion of linked trips and spin-off expenditure to the town's existing shops and facilities than a foodstore located on the former Foundry site (900m from the nearest retail activity in the 'Old Town'. A foodstore on the Fire Station site would also be better placed to 'claw back' shoppers and expenditure from the District's out-of-centre stores to the benefit of the town centre's overall vitality and viability.
- The key PPS4 impact 'test' in this case is with regard to the likely impact on existing, committed and planned investment in centres. Although there is no "committed or planned investment" for a foodstore on the Fire Station site at this stage and it is not identified in the Council's existing or emerging development plan or the WDRLS for a foodstore, we do nevertheless consider that the County Council's intention to dispose of the Fire Station site over the short term is a material consideration in this case. Although there is a 'risk' that granting planning permission for the Morrisons store could jeopardise the purchase of the Fire Station site by Deeleys / Waitrose, there is equally no guarantee that they will be the County Council's preferred bidder as they are only one of a number of interested parties. Furthermore, given that other foodstore operators have apparently expressed an interest in the site, then it could be that other operators will come forward if Waitrose do decide not to bid for the site.
- Assuming that a Waitrose store can be delivered on the Fire Station site for the purposes of our appraisal, we nevertheless consider that it would provide a different type of offer and choice to the Morrison's store. In our judgment the two operators could 'co-exist' in Leamington's catchment area. There are examples across the country of Waitrose trading side-by-side with other foodstore operators, because of their different 'branding', offer and customer profiles. In Kenilworth, for example, Waitrose has recently opened a store in close proximity to the existing Sainsbury's store and this centre serves a

much smaller catchment than Leamington. In our judgement the Waitrose store will serve a different market to the proposed Morrison's store, as it is located to the north of the town centre in an area that currently has an under-provision of foodstores. In contrast, the Morrison's proposal to the south of the town centre will be in closer proximity to the existing Sainsbury's and other out-of-centre stores, and would not therefore represent such a convenient or accessible shopping location for those residents living in the north.

- It is difficult to advise whether Waitrose would 'walk away' from the purchase of the Fire Station if the Council resolve to grant permission for the Morrison's proposal. It may be an idle threat or a "spoiling tactic" by Waitrose as NLP contends, particularly as there is no guarantee at this stage that Deeley/Waitrose will be the County's preferred developer for the Fire Station site. Notwithstanding this, we are aware that Waitrose has been looking for opportunities to develop a new store in Leamington Spa over a number of years and, if the Fire Station site is indeed a suitable and viable location that meets their requirements, there is no reason to believe that they would dismiss an opportunity to establish a presence in the town centre.
- Given the 'gaps' in the evidence in support of the availability, viability and suitability of the Fire Station site to accommodate a foodstore and the advanced stage in the Council's determination of the Morrisons proposal, we do not consider that there is a robust case in retail planning terms at this stage to refuse the Morrisons application on the grounds that it is not compliant with the sequential approach. Equally, we do not consider that there is 'clear evidence' that the Morrisons application is likely to lead to "significant adverse effects" in terms of any one of the impacts set out in PPS4.

Having carefully considered the advice from Dr Norris and the opposing views expressed in the objections, I am satisfied that the advice from Dr Norris is sound and therefore for the reasons that he has stated I have concluded that the proposals would be in accordance with PPS4 and Local Plan Policy UAP3.

Loss of employment land

Local Plan Policy SC2 states that redevelopment or change of use of existing and committed employment land for other uses will not be permitted unless the proposals meet one of 4 criteria. The relevant criterion (b) permits the loss of employment land where the applicant can demonstrate that there are valid reasons why the use of the site for the existing or another employment use is not economically viable.

The appropriateness of another employment use for this site was considered by the Council when it prepared and adopted a Planning and Development Brief for the Station Area in 2008. This states that the Foundry site should accommodate an employment-led mixed use redevelopment with hotel/conference centre, residential apartments and small scale supporting retail / leisure uses. The Brief acknowledged that a solely employment redevelopment of this site would not achieve the Council's aspirations to make the best use of the land and deliver a high quality building in order to provide an attractive entrance to the town. It would also be challenging to achieve in the context of the wider abnormal development costs associated with this site. The Development Brief did, however, acknowledge that the exact split or mix of uses would need to be informed by more detailed site analysis and appraisal than was undertaken for the Brief.

The applicant has stated that an employment-led mixed use development as envisaged by the Development Brief would not be viable due to the costs of site clearance and decontamination, infrastructure, and given the limited existing demand for offices and apartments. Consequently such a development is unlikely to be secured in the current climate and would not be undertaken on a speculative basis. The applicant argues that there is a need for a significant first phase of development to change perceptions of the site and that a foodstore would act as a catalyst for further development and would pay for the significant on and off-site infrastructure works that are required (including highway improvements as identified elsewhere in this report) and clearance of the site ready for development.

The applicant has submitted a detailed viability appraisal showing that an employment-led mixed use development as envisaged by the Development Brief would not be viable. The Council appointed independent commercial consultants to critically appraise the evidence and amendments to the evidence on revenues and costs have been submitted by the applicant following their advice. As amended, the consultants have confirmed that the overall appraisal is sound and that the proposals with a foodstore are viable and those without would not be viable.

The Council's commercial consultants have challenged the evidence submitted in terms of whether a smaller foodstore or a foodstore incorporating a mezzanine floor/shared car parking (thereby releasing more land for employment use) could also deliver a viable development. The applicant has argued that this would be less attractive to potential occupiers and would make it hard for the proposed store to operate and compete with other out of centre foodstores. Shared car parking would also make the office use less attractive to potential office occupiers. The Council's consultants have accepted that a smaller foodstore is likely to be less attractive given that the size of competing stores in the vicinity may place an operator of a smaller foodstore at a competitive disadvantage. It is therefore considered that, whilst a smaller store may in theory still result in a viable development, it would not be deliverable or able to act as a catalyst for the remainder of the site to come forward if there is no retailer interest due to its limited size.

It has also been suggested that a lower density of office development covering a larger part of the site may be more attractive in the current market. However, this would not achieve the aim of the Development Brief to secure a landmark office development in this location.

The Council's commercial consultants have also challenged whether any other type of enabling development should be considered by the applicant, such as housing. They do, however, acknowledge that the scope for apartments is limited given current levels of market demand and the Planning Brief did not envisage this site being suitable for more traditional house styles. The consultants have also suggested that the Council appoint cost consultants to examine the applicant's stated costs in more detail. However, a significant amount of work has already been carried out on this issue and the appraisal information that has been submitted contains a significant level of detail, as does the report from the Council's consultants.

Having regard to the evidence submitted, and the views of the independent consultant, I consider that the applicant has demonstrated that their proposal accords with criteria (b) of Local Plan Policy SC2.

Notwithstanding the above and by way of mitigating for the loss of employment land, the applicant has also agreed to fund the Brunswick Employment Club for 2 years following the implementation of development and to implement measures to increase the number of local people employed in the foodstore and during the construction of the foodstore, including through training and recruitment. This will help to mitigate the impact of the loss of employment from this site. In addition in relation to this issue, the applicant has also cited the recent Ministerial statement 'Planning for Growth' and the key role planning plays in ensuring that the sustainable development needed to support economic growth is able to proceed as easily as possible. The applicant states that over 1,000 new jobs will come forward through this proposal in a range of different sectors and skill levels.

A number of the objectors have questioned the suitability of granting permission for the application as submitted because only the foodstore has been submitted in detail and there is no guarantee that the offices and industrial units will be developed. Discussions have taken place with the developer on this issue, but they cannot give any guarantee that the offices and industrial units will come forward in any set timescale given the current market conditions. They have advised that any restrictions to require the offices and industrial units to be developed within a certain timeframe would make the proposals unviable due to the already significant up front costs of decontamination and infrastructure works. However, they have agreed to submit an annual report to the Council setting out the steps they have taken to market and implement the office and industrial elements of the proposed development. This will ensure that the Council are able to monitor the marketing exercise and ensure that the applicant is making best endeavours to secure potential occupiers. Taking this into account, on balance, I would accept the applicant's arguments on this issue and therefore I do not consider that it would be appropriate to impose any restrictions to require the offices and industrial units to be developed within a set timescale.

Highway safety

There have been extensive discussions between the developer and the Highway Authority regarding highway safety issues. The proposed highway works have been amended as a result of these discussions and the Highway Authority have now confirmed that they have no objection to the proposals, subject to conditions and a Section 106 agreement to require the following highway works and mitigation measures:

- provision of a signalised access to the foodstore from Old Warwick Road;
- provision of a priority junction to the offices from Old Warwick Road;
- provision of an on and off-road cycle path to Old Warwick Road and Princes Drive;
- improvements to the Europa Way roundabout;
- widening and improvements to the Old Warwick Road roundabout;
- provision of a signalised crossing to Princes Drive and Europa Way;
- provision of an uncontrolled crossing to Myton Road;
- improvements and widening to Princes Drive;
- provision of a signal junction, signalised pedestrian crossing and associated works to the Park Drive / Princes Drive junction;
- a contribution of £50,000 towards the cost of a new bus / rail interchange at Leamington Spa Station providing a new pedestrian crossing and bus stops / shelters on Old Warwick Road directly opposite the station entrance;
- diversion of the X17 bus service to run along Old Warwick Road past the frontage of the site, with a 15 minute frequency, over a three year period

commencing upon occupation of the foodstore - contributions of £110,000 prior to the occupation of the foodstore, £100,000 on the first anniversary of the first payment and £90,000 on the second anniversary of the first payment; and

- a contribution of £15,000 towards the consultation process for a Traffic Regulation Order to reduce the speed limit on Old Warwick Road from 40mph to 30mph and to prohibit right turning movements from Park Drive to Princes Drive.

As there has been no objection from the highway authority and taking into account the extensive highway works that are proposed to mitigate the impact of the development, I am satisfied that the proposals would be acceptable from a highway safety point of view and that the proposals would have an acceptable impact on surrounding roads and junctions.

I note the concerns of the Cycleways group and Sustrans regarding some aspects of the cycling provision. However, the proposed highway layout and cycling provision has been developed following detailed discussions with the Highway Authority, who will have considered the suitability of the cycling provision. As there has been no objection from the Highway Authority, I am satisfied that the layout that is now proposed achieves an appropriate balance between the needs and safety of different road users, including cyclists.

I note that the Town Council and residents of York Road have requested that the developer be required to close off one end of York Road to turn it into a cul-de-sac. However, Highways have considered this request and have not advised that these works are required to mitigate the impact of the proposed development. Therefore I do not consider that there are any planning grounds to require that these works are carried out as part of the proposed development.

I note that concerns have been raised about the over provision of car parking due to the possibility that customers of the foodstore could use the office car park. However, the applicant has confirmed that the two car parks would kept separate and that customers of the foodstore would not be permitted to use the office car park. The amount of car parking spaces shown would be in accordance with the Council's Parking Standards.

With regard to the comments of Chiltern Railways about ensure adequate capacity on Old Warwick Road for a potential new car park for the station, no details have been provided of any such proposals. Therefore it is difficult to assess the impact of the proposed development on any such proposals that may or may not come forward in the future. The Highway Authority have not objected to the proposals on these grounds and therefore I do not consider that this matter would justify a refusal of permission.

Impact on the character and appearance of the area

As amended, I am satisfied that the proposals would have an acceptable impact on the character and appearance of the area. The relationship of the proposed hotel to the access road was initially a cause for concern, but the amended layout shows an arrangement that could accommodate an appropriate design. The design of the proposed foodstore would be appropriate for this location. Only the height and indicative siting is shown for the other buildings. I consider these would be appropriate and would allow for an appropriate detailed design to be developed for this important gateway development. The 4-5 storey height of office building is consistent with the parameters set out in the Development Brief.

Impact on the living conditions of nearby dwellings

The proposed light industrial / storage and distribution units would share a boundary with the adjacent dwellings in Myton Crofts. The existing landscaped bund would be largely retained along that boundary, although this would be reduced in width by excavating the application site side of the bund and constructing a retaining wall. The provision of light industrial / storage and distribution units on this part of the site would be in accordance with the Development Brief and Local Plan Policy SSP1, which allocates this land for employment use and specifically states that it is suitable for B1 and B8 purposes. Environmental Health are happy with the relationship between this site and the neighbouring dwellings, subject to conditions to restrict the hours of deliveries and to restrict noise levels from plant and equipment operated on the site. Therefore, I do not consider that the development of light industrial / storage and distribution units on this part of the site would harm the living conditions of neighbouring dwellings.

The next nearest residential areas in Myton Road, Westlea Road / Bury Road and Avenue Road / Park Drive do not have such a close relationship with the application site, although they are close enough to potentially be affected by the proposed development. Nevertheless, I am satisfied that the delivery hours and noise limit conditions recommended by Environmental Health will ensure that those dwellings do not experience undue noise and disturbance.

I note the comments of Environmental Health regarding the relationship between the proposed hotel and the service yard of the foodstore. However, as occupants of the hotel would not be permanent residents, this would not be as significant an issue as it would be if the hotel site was developed as dwellings. Furthermore, the hotel site is currently only an outline proposal and any future developer of that site would be aware of the presence of the service yard when drawing up their proposals and could incorporate mitigation measures into the design. In addition to this, the proposed condition to restrict delivery times would limit any impact. Therefore I do not consider that a refusal of planning permission would be justified on these grounds.

Ecological issues and the provision and management of open space within the site

The application proposes that the triangle of land to the north of the railway will be used as a sustainable community woodland. The applicant proposes that this site will be secured and a community group will be set up to develop plans for this area. The applicant will lease the site to the community group and provide £52,000 to fund the establishment of the community group, to consult with the local community, to secure the site, and to develop and implement plans for basic site access and planting. This is in accordance with the Development Brief, which stated that this part of the site could be used as an area for nature conservation enhancement and education.

The County Ecologist has raised concerns about this aspect of the proposals. The site is part of an Ecosite and the County Ecologist feels that this area should be protected from works and be allowed to be naturally regenerated. However, I am conscious that the proposals for a sustainable community woodland would be in accordance with the Development Brief. This is likely to result in only limited access to the land and relatively limited disturbance to the site. Furthermore, no protected species would be adversely affected by the proposals and no specific ecological harm has been identified in relation to the proposals.

Therefore, I am satisfied that the proposals for a sustainable community woodland would be acceptable.

The black poplars identified by the County Ecologist must be removed to make way for the access to the foodstore. However, it is proposed to plant replacement black poplars within the site. Furthermore, in accordance with the comments of the County Ecologist, conditions are recommended to require the demolition and tree removal works to be supervised by a bat ecologist and to require the submission of a combined landscape and ecological management plan. With regard to the suggested tree protection condition, I do not consider that this would be necessary because all of the existing trees on the site of the foodstore are proposed to be removed.

Other matters

With regard to contamination, Environmental Health and the Environment Agency are happy for planning permission to be granted subject to conditions.

I note the request from Council's Green Infrastructure Manager for more large canopy trees to be provided within the car park to reflect heat and to help to reduce global warming. The landscaping proposals have subsequently been amended, but the Green Infrastructure Manager would still like to see more large canopy trees. The applicant does not wish to make further changes because they are concerned that any further changes along the lines requested would compromise safety and security within the car park including monitoring from CCTV cameras. As the requested amendment would not specifically mitigate a harmful impact of the proposed development, I do not consider that it would be reasonable to go further on this issue. There have been no objections to the application from a landscape design point of view.

The Council's Green Infrastructure Manager has also raised concerns about the ongoing health of the trees that will be planted in the car park. The applicant has proposed a system of "silva cells" which the Green Infrastructure Manager has agreed in principle but he is still concerned about how water will get into these cells. Due to issues of contamination it is not possible to provide a fully porous surface to drain water into the cells, and therefore the applicant has proposed that the trees will be manually watered. I note the concerns of the Green Infrastructure Manager about the difficulties of ensuring that the watering regime is maintained, but this would seem to be a reasonable solution to the problem and therefore I do not consider that a refusal of planning permission could be justified on these grounds.

I note the objection that has been submitted on the grounds that the development does not provide for the relocation of the Stagecoach depot from Station Approach and therefore that the proposals are contrary to the Development Brief. However, the Brief only refers to the 'possible' relocation of the bus depot onto the Ford Car Park site and therefore this is expressed as an aspiration rather than a requirement. The current proposals do not preclude such a relocation, although any such proposals would need to be subject to a further planning application. It would not be reasonable to require the developer of the application site to secure the relocation of the occupier of a separate site in order to allow for the redevelopment of that other site.

Environmental Health initially raised health and safety concerns regarding the layout of the foodstore car park and service yard. However, following discussions with the applicant and the submission of tracking plans to demonstrate how

vehicles would access and turn within the service yard, Environmental Health have withdrawn their objection on this issue.

The initial proposals included a gas-fired CHP plant for the foodstore but this was not considered to meet the renewable energy requirements of Local Plan Policy DP13 because it would not have used a renewable source of fuel. This has since been amended to propose a heat recovery system to utilise the waste heat from the refrigeration plant within the foodstore, together with the provision of solar photovoltaic panels to the roof. The other buildings within the development would utilise a range of other technologies including solar photovoltaic panels, solar thermal systems and air source heat pumps.

RECOMMENDATION

GRANT, subject to the conditions listed below and subject to the completion of a Section 106 agreement to require the following:

- a contribution of £50,000 towards the cost of a new bus / rail interchange at Leamington Spa Station providing a new pedestrian crossing and bus stops / shelters on Old Warwick Road directly opposite the station entrance;
- diversion of the X17 bus service to run along Old Warwick Road past the frontage of the site, with a 15 minute frequency, over a three year period commencing upon occupation of the foodstore - contributions of £110,000 prior to the occupation of the foodstore, £100,000 on the first anniversary of the first payment and £90,000 on the second anniversary of the first payment;
- a contribution of £15,000 towards the consultation process for a Traffic Regulation Order to reduce the speed limit on Old Warwick Road from 40mph to 30mph and to prohibit right turning movements from Park Drive to Princes Drive;
- details of a marketing strategy for the office and light industrial / storage and distribution developments;
- a contribution of £32,000 over two years to fund the Brunswick Employment Club;
- measures to increase the number of local people employed in the foodstore and during the construction of the foodstore;
- a contribution of £52,000 and implementation of measures to set up a community group to manage a sustainable community woodland on the triangle of land north of the railway line, including details of leasing the land and public access to the site; and
- a Green Travel Plan.

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.
- 2 With the exception of the foodstore and structural landscaping, this permission is granted under the provisions of Article 4(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2010 as amended, on an outline application and the further approval of the District Planning Authority shall be required to the undermentioned matters hereby reserved before any development is commenced:-

- (a) appearance
- (b) landscaping (other than the structural landscaping hereby approved)
- (c) layout
- (d) scale

REASON : To comply with Section 92 of the Town and Country Planning Act 1990 as amended.

- 3 In the case of the reserved matters specified above, application for approval, accompanied by all detailed drawings and particulars, must be made to the District Planning Authority, for each phase of the development, not later than the expiration of three years beginning with the date of this permission. **REASON**: To comply with Section 92 of the Town and Country Planning Act 1990.

- 4 The development hereby permitted shall be carried out strictly in accordance with the details shown on the approved drawing(s) B944/0101 P5, B944/0102 P1, B944/0103 P2, B944/0106 P2, B944/0107 P1, B944/0110 P4, B944/0129 P2, B944/0120 P2, B944/0121 P2, B944/0122 P2, B944/0123 P1, B944/0126 P1, B944/0127 P1, B944/0130 P2, B944/SK016 P1, W103982L03D, W103982L05D, W103982L07B, W103982L08B, W103982L09N, W103982L10A, 19374-01-1-OS-004A, 19374-01-1-OS-005D, 19374-01-1-OS-007A, 19374-01-1-OS-008A & 23531/004/002 1, and specification contained therein, submitted on 11 October 2010, 4 January 2011, 8 April 2011, 28 April 2011, 17 June 2011 & 3 August 2011, and any details approved under Condition 2, unless first agreed otherwise in writing by the District Planning Authority. **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.

- 5 Details of the means of disposal of storm water and foul sewage from each phase of the development shall be submitted to and approved by the District Planning Authority before each phase of the development hereby permitted is commenced and the development shall not be carried out other than in strict accordance with such approved details. **REASON** : To ensure satisfactory provision is made for the disposal of storm water and foul sewage and to satisfy Policies DP9 and DP11 of the Warwick District Local Plan 1996-2011.

- 6 Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details for the relevant phase of the development.

The scheme shall also include:

- a 300mm freeboard for built development above surface water flooding levels for the 100 year plus Climate Change event;
- details to ensure manhole covers are not lifted in high intensity rainfall events;
- details of SUDS features; and
- details of how the scheme shall be maintained and managed after completion.

REASON : To prevent the increased risk of flooding, ensure safety from surface water flooding, improve water quality and ensure future maintenance of the surface water drainage system, in accordance with Local Plan Policy DP11.

- 7 No development shall take place until the applicant has secured the implementation of a written programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the District Planning Authority. **REASON :** To ensure any items of archaeological interest are adequately investigated, recorded and if necessary, protected, in order to satisfy the requirements of Policy DP4 of the Warwick District Local Plan 1996-2011.
- 8 The development hereby permitted shall not commence until a detailed Landscape and Ecological Management Plan has been submitted to and approved in writing by the District Planning Authority. The plan should also include details of habitat creation measures including creation and management of bat roosting opportunities (e.g. setting up bat boxes), nesting bird opportunities (e.g. setting up bird boxes), creating areas of wild flower grasslands (including the protection of the existing rare plant species on site and the eradication of invasive plants), protecting/replacing trees on site (including the native black poplars) as well as details of managing the whole site for wildlife. It should also include details of enhancement of existing habitat – in particular supplementary planting of suitable buffer zones with appropriate native species. Details of species used and sourcing of plants should be included. The plan should also include details of long-term monitoring of the site, including further species-specific monitoring surveys such as an additional bat survey 1 year after completion of works. Such approved measures shall thereafter be implemented in full for each phase of the development. **REASON :** To ensure a net biodiversity gain in accordance with PPS9 and Policy DP3 of the Warwick District Local Plan.
- 9 No development shall commence unless and until there has been submitted to the District Planning Authority a survey report on the extent to which any part or the whole of the application site is contaminated by toxic or other noxious materials and on the remedial measures required to deal with the hazards (including details of the timing and phasing of the remedial measures). All toxic or obnoxious materials shall be removed or otherwise treated in strict accordance with the approved details and timescale. The foodstore hereby permitted shall not be opened unless and until all remediation works for the whole of the application site have been completed. **REASON :** To protect the health and safety of future occupiers, and to satisfy the requirements of Policy DP9 of the Warwick District Local Plan 1996-2011.
- 10 Prior to commencement of development, a verification report demonstrating the completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the District Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any

plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority. **REASON** : To protect the health and safety of future occupiers, and to satisfy the requirements of Policy DP9 of the Warwick District Local Plan 1996-2011.

- 11 No development shall be carried out on the site which is the subject of this permission, until details of provision for storage of refuse have been submitted to and approved by the District Planning Authority and the relevant phase of the development shall not be carried out otherwise than in full accordance with such approved details. **REASON** : To protect the amenities of occupiers of the site and the character and appearance of the locality, in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.
- 12 The development hereby permitted shall not be commenced until a scheme for the provision of adequate water supplies and fire hydrants, necessary for fire fighting purposes at the site, has been submitted to and approved in writing by the District Planning Authority. The development shall not then be occupied until the scheme has been implemented to the satisfaction of the District Planning Authority for each phase of the development. **REASON** : In the interests of fire safety.
- 13 Samples of all external facing materials to be used for the construction of the foodstore hereby permitted, shall be submitted to and approved by the District Planning Authority before any constructional works are commenced. Development shall be carried out in accordance with the approved details for the relevant phase of the development. **REASON** : To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy DP1 of the Warwick District Local Plan 1996-2011.
- 14 No development shall be carried out on the site which is the subject of this permission, until satisfactory details of boundary treatment have been submitted to and approved by the District Planning Authority and the development shall not be carried out otherwise than in full accordance with such approved details for the relevant phase of the development. **REASON** : To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.
- 15 No part of the development hereby permitted shall be first occupied unless and until the relevant part of the renewable energy 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 in accordance with the provisions of Policy DP13 in the Warwick District Local Plan 1996-2011.
- 16 The cycle provision shown on the approved plans shall be completed before the foodstore hereby permitted is occupied and thereafter shall be kept free of obstruction and be available at all times for the parking

of cycles associated with the development, unless otherwise agreed in writing by the Local Planning Authority. **REASON** : To ensure that there are adequate cycle parking facilities to serve the development, in accordance with the requirements of Policy DP8 of the Warwick District Local Plan 1996-2011.

- 17 The proposed car parking area for the development hereby permitted in detail shall be constructed, surfaced, laid out and available for use prior to the first occupation of the foodstore hereby permitted, in full accordance with the approved plan. At all times thereafter the car parking area shall be kept free of obstruction and available for the parking of vehicles in association with the foodstore hereby permitted unless agreed otherwise in writing by the District Planning Authority. **REASON** : To ensure that adequate parking facilities are available, in accordance with the requirements of Policy DP8 of the Warwick District Local Plan 1996-2011.
- 18 The landscaping scheme submitted as part of the application hereby permitted in detail (including the proposed silva cells) shall be completed, in all respects, not later than the first planting season following the completion of the foodstore hereby permitted. Any trees removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced by trees of similar size and species to those originally required to be planted. **REASON** : To protect and enhance the amenities of the area, and to satisfy the requirements of Policies DP1 and DP3 of the Warwick District Local Plan 1996-2011.
- 19 All demolition and tree removal works hereby permitted shall be undertaken in the presence of a qualified bat worker appointed by the applicant to supervise all destructive works to the roofs of the buildings to be demolished and all trees to be removed. All roofing material is to be removed carefully by hand. Should bats be found during these operations, then work must cease immediately while Natural England and WCC Ecology Unit are consulted for further advice. In addition to this, the qualified bat worker shall submit a brief report to the local planning authority within 1 month following completion of the supervised works to summarise the findings. **REASON** : To ensure that protected species are not harmed by the development, in accordance with Policy DP3 of the Warwick District Local Plan.
- 20 No deliveries shall take place to or from any of the premises hereby permitted (including the foodstore, hotel, offices and light industrial / warehouse units) except between the hours of 0700 and 2300 on Mondays to Saturdays or between the hours of 0900 and 1800 on Sundays. **REASON** : To protect the amenities of surrounding properties, in accordance with Policy DP2 of the Warwick District Local Plan 1996-2011.
- 21 The engines of all delivery lorries shall be switched off within 5 minutes of the lorry parking on the site. **REASON** : To protect the amenities of surrounding properties, in accordance with policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.
- 22 Noise arising from any plant or equipment operated on the application site, when measured one metre from the facade of any noise sensitive premises (including the hotel hereby permitted), shall not exceed the

background noise level by more than 3dB(A) measured as LAeq(5 minutes). **REASON** : To protect the amenities of surrounding properties, in accordance with Policy DP9 of the Warwick District Local Plan 1996-2011.

- 23 No external lighting or sound amplification system shall be fixed to the external walls or roofs of the buildings hereby permitted, or on any open land within the application site without the written consent of the District Planning Authority. **REASON** : To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.
- 24 No materials, plant or equipment of any description including skips or containers, shall be stacked, stored or deposited on any open area of the site. **REASON** : To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy DP1 of the Warwick District Local Plan 1996-2011.
- 25 The foodstore hereby permitted shall be used as a foodstore and for no other purpose including any other purpose in Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 2005, (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). The net retail sales area of the foodstore shall not exceed 3,400 sq m. No more than 21% of this net retail sales area shall be used for the display and sale of comparison goods. **REASON** : To satisfy the requirements of Policy UAP3 in the Warwick District Local Plan 1996-2011.
- 26 All accesses to the development sites for vehicles shall not be used unless the required highway works have been laid out and constructed within the public highway in accordance with the standard specification of the Highway Authority. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy DP6 of the Warwick District Local Plan 1996-2011.
- 27 The foodstore hereby permitted shall not be occupied unless and until the following highway works have been completed in strict accordance with the approved plans:
- (a) the signalised access shown on drawing no. 19374-01-1-OS-004A;
 - (b) the on and off-road cycle path to Old Warwick Road and Princes Drive shown on drawing nos. 19374-01-1-OS-004A, 19374-01-1-OS-007A & 19374-01-1-OS-008A;
 - (c) the improvements to the Europa Way roundabout shown on drawing no. 19374-01-1-OS-007A;
 - (d) the widening and improvements to the Old Warwick Road roundabout, the provision of signalised crossings to Princes Drive and Europa Way, access treatments, associated landscaping and provision of an uncontrolled crossing to Myton Road, as shown on drawing nos. 19374-01-1-OS-007A & 19374-01-1-OS-008A;
 - (e) the improvements and widening to Princes Drive as shown on drawing nos. 19374-01-1-OS-005D & 19374-01-1-OS-008A; and
 - (f) the new signal junction, signalised pedestrian crossing and associated works to the Park Drive / Princes Drive junction, as shown on drawing no. 19374-01-1-OS-005D.

REASON : In the interests of highway safety, in accordance with the

requirements of Policy DP6 of the Warwick District Local Plan 1996-2011.

- 28 The offices hereby permitted shall not be occupied unless and until the priority junction shown on drawing no. 19374-01-1-OS-004A has been constructed in strict accordance with the approved plans. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy DP6 of the Warwick District Local Plan 1996-2011.
- 29 None of the light industrial and storage and distribution units hereby permitted shall be occupied unless and until the public highways around the entrance to that part of the application site have been improved so as to provide a safe pedestrian area in accordance with a scheme that shall have been submitted to and approved in writing by the District Planning Authority. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy DP6 of the Warwick District Local Plan 1996-2011.
- 30 The accesses to the site shall not be constructed in such a manner as to reduce the effective capacity of any drain or ditch within the limits of the public highway. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy DP6 of the Warwick District Local Plan 1996-2011.
- 31 The development shall not be occupied until all parts of the existing accesses within the public highway not included in the permitted means of access have been closed and the kerb, footway and verge has been reinstated in accordance with the standard specification of the Highway Authority. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy DP6 of the Warwick District Local Plan 1996-2011.
- 32 The foodstore hereby permitted shall not be occupied unless and until a Green Travel Plan to promote sustainable transport choices to the foodstore has been submitted to and approved in writing by the District Planning Authority. The approved measures (and any approved variations) shall be implemented in full at all times after the completion of the foodstore. The plan shall:
- (i) specify targets for the proportion of employees and visitors travelling to and from the site by foot, cycle, public transport, shared vehicles and other modes of transport which reduce emissions and the use of non-renewable fuels;
 - (ii) set out measures designed to achieve those targets together with timescales and arrangements for their monitoring, review and continuous improvement;
 - (iii) explain and justify the targets and measures by reference to the transport impact assessment approved in accordance with condition x;
 - (iv) identify a senior manager of the business using the site with overall responsibility for the plan and a scheme for involving employees of the business in its implementation and development.

REASON : To satisfy the aims of PPG13 : Transport in reducing reliance on the use of private motor vehicles in order to promote sustainable transport choices to the site and in accordance with Policy DP7 of the Warwick District Local Plan 1996-2011.

INFORMATIVES

For the purposes of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, the following reason(s) for the Council's decision are summarised below:

In the opinion of the District Planning Authority, the development achieves acceptable standards of layout and design and does not give rise to any harmful effects in terms of highway safety, the impact on the living conditions of nearby dwellings or the ecological impact of the proposals which would justify a refusal of permission. Furthermore the applicant has demonstrated that an employment-led redevelopment would not be viable and that there are no sequentially preferable sites available for a foodstore. The proposal is therefore considered to comply with the policies listed.
