

**Planning Committee:** 31 March 2015

**Item Number: 9**

**Application No:** W 14 / 1713

**Town/Parish Council:** Warwick

**Registration Date:** 26/11/14

**Case Officer:**

Rob Young

**Expiry Date:** 06/04/15

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**Homebase Ltd, Myton Road, Leamington Spa, CV31 3NY**

Erection of side and front extensions; subdivision of building into two separate units; alterations to car park and service yard; and variation of condition 3 of planning permission no. W96/0461 to allow unrestricted Class A1 non-food retail use in 15% of the sales floorspace (condition 3 currently prohibits the sale of food or other convenience goods, clothing, shoes, sports goods, fashion accessories, jewellery and home furnishings other than beds and furniture). FOR  
Intercounty Properties

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

**RECOMMENDATION**

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

**DETAILS OF THE DEVELOPMENT**

The application proposes the erection of side and front extensions and the subdivision of the building into two separate units together with associated alterations to the car park and service yard. The application also proposes the variation of condition 3 of planning permission no. W96/0461 to allow unrestricted Class A1 non-food retail use in 15% of the sales floorspace. Condition 3 currently prohibits the sale of food or other convenience goods, clothing, shoes, sports goods, fashion accessories, jewellery and home furnishings other than beds and furniture.

The application has been amended to propose changes to the restriction of goods condition. Initially it had been proposed that a revised condition should permit the sale of home furnishings and sports goods and allow unrestricted A1 use in 25% of the floorspace. However, following the recent appeal dismissal (Ref. W13/0833) the applicant has amended the current application to reflect the restriction of goods condition that was agreed by the Council's retail consultant at the appeal (i.e. omitting home furnishings and sports goods and reducing the unrestricted A1 floorspace to 15%).

**THE SITE AND ITS LOCATION**

The application relates to the Homebase DIY store situated on the northern side of Myton Road. The site is situated within a mixed commercial and residential area, with dwellings adjoining the western boundary of the site and facing the site from the opposite side of Myton Road. A car dealership and further retail units are situated to the east of the site, while a vacant employment development site adjoins the rear boundary of the site. This is an out-of-centre location in retail policy terms.

The existing store is set back from Myton Road behind a customer car park. A vehicular access at the western end of the Myton Road frontage leads to this customer car park and a service yard at the side of the building. The store also has a garden centre adjoining the western elevation of the building.

### **PLANNING HISTORY**

In 1992 planning permission was granted for "Erection of a warehouse for use as a DIY store with offices at first floor and a garden centre at the side and parking for 145 vehicles" (Ref. W91/1268).

In 1996 planning permission was refused for "Variation of condition 4 of pp. W911268 (Use restricted to DIY store) to allow A1 (non-food) retail sales" (W96/0056). The reason for refusal related to the harm that would be caused to Leamington Town Centre. A subsequent appeal was dismissed.

Later in 1996 planning permission was granted for "Variation of condition 4 of pp. W911268 (Use restricted to DIY store) to allow A1 (non-food) retail sales, excluding shoes and fashion items". This was subject to the following conditions in relation to retail sales: (2) No unit shall be created by sub-division that has less than 750sq.m. sales area in size; and (3) The development shall not be used for the sale of food or other convenience goods, the sale of clothing, shoes, sports goods, fashion accessories, jewellery and home furnishings other than beds and furniture.

In 2001 planning permission was refused for "Extension to and refurbishment of D.I.Y unit with ancillary office together with revised accesses to Myton Road and Princes Drive; provision of car parking area, servicing and landscaping (Ref. W00/0653). A subsequent appeal was dismissed on the grounds that the development was contrary to retail policy and would cause unacceptable harm to the living conditions of nearby residents.

In 2013 planning permission was refused for "Erection of side and front extensions; subdivision of building into two separate units; alterations to car park and service yard; and variation of condition 4 of planning permission no. W91/1268 to allow unrestricted Class A1 retail use (condition 4 currently restricts use of the premises to a DIY store only)" (Ref. W13/0833). An appeal against that refusal was dismissed in February 2015.

### **RELEVANT POLICIES**

- The Current Local Plan
- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)

- DP3 - Natural and Historic Environment and Landscape (Warwick District Local Plan 1996 - 2011)
- DP6 - Access (Warwick District Local Plan 1996 - 2011)
- DP8 - Parking (Warwick District Local Plan 1996 - 2011)
- DP7 - Traffic Generation (Warwick District Local Plan 1996 - 2011)
- DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)
- DP14 - Crime Prevention (Warwick District Local Plan 1996 - 2011)
- UAP3 - Directing New Retail Development (Warwick District Local Plan 1996 - 2011)
- The Emerging Local Plan
- DS1 - Supporting Prosperity (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- DS3 - Supporting Sustainable Communities (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- DS5 - Presumption in Favour of Sustainable Development (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- PC0 - Prosperous Communities (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TC1 - Protecting and Enhancing the Town Centres (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TC2 - Directing Retail Development (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- BE1 - Layout and Design (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- BE3 - Amenity (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TR1 - Access and Choice (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TR2 - Traffic Generation (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TR3 - Transport Improvements (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TR4 - Parking (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- HS7 - Crime Prevention (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- CC2 - Planning for Renewable Energy and Low Carbon Generation (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- CC3 - Buildings Standards Requirements (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- DM1 - Infrastructure Contributions (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- Guidance Documents
- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Vehicle Parking Standards (Supplementary Planning Document)
- National Planning Policy Framework

## **SUMMARY OF REPRESENTATIONS**

**Leamington Town Council:** Object. The proposal does not meet the requirements TCP1 and TCP2 of the Local Plan to protect the viability and vitality of the town centre against out-of-town development.

**Warwick Town Council:** No objection.

**Cllr Gill:** No objection.

**BID Leamington:** Object on the grounds that the proposals are inconsistent with the Town Centre first policy approach. The sale of home furnishings, cooking, dining, furniture, lighting, flooring, textiles and electrical products would be in direct competition with over 60 businesses in the town centre. The town centres should be the focus of new retail development, in accordance with Local Plan Policies TCP1 and TCP2. The negative impact that out of town retail has had on town centres is well documented. Through BID Leamington local businesses have already invested over £2m in the town centre and have recently committed to a further 5 years of funding so they are very committed to ensuring the vitality of the town centre. The Council should consider the long-term impact of what might be easier to deliver out of town development over seeking appropriate investment in the town centre.

**Leamington Chamber of Trade:** Object on similar grounds to those referred to by BID Leamington above.

**Lasalle Investment Management (Royal Priors Shopping Centre):** Object on the grounds that the proposals would have a significant adverse impact on the town centre. There are a number of sequentially preferable sites within the town centre. Also raise concerns about trade diversion and the impact on planned investment in the town centre.

**Homebase (current occupiers of application property):** Homebase have no intention to close the store and will be seeking to renew their Lease. There is therefore no requirement to consider the future of this site. It is a purpose designed DIY store for which there remains demand. The existing DIY store complements the offer within Leamington Town Centre. The proposals are contrary to the sequential approach set out in the NPPF. The applicant's assessment of the impact on Leamington Town Centre is flawed. The proposals will result in a net loss of jobs compared with the existing employment in the Homebase store.

**Inland Waterways Association:** No objection.

**WCC Highways:** Object on the following grounds:

1. The proposed development could result in an increase in vehicle movements on the public highway in an area which is considered traffic sensitive.
2. The service yard is not considered suitable for the purpose intended and could result in HGV's manoeuvring away from the service yard, which would affect the performance of the vehicular access to the site.

3. The proposed pedestrian access to the site is not considered to be in a suitable location. Pedestrian movements could conflict with vehicle movements, and could affect the performance of the vehicular access to the site.

*NB. WCC Highways raised no objection to the previous application (W13/0833) that was for a similar development.*

**WCC Ecology:** Recommend notes regarding bats and nesting birds.

**WDC Environmental Health:** No objection, subject to conditions in relation to noise and contamination.

## **ASSESSMENT**

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

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

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

Whilst the proposals include an extension to provide new retail floorspace, the application also proposes that the existing mezzanine sales area and garden centre would be removed. As a result, the proposals would reduce the existing retail floorspace by 27%.

The application also proposes that the existing unit will be subdivided into two separate units. However, this subdivision would not require planning permission in itself. The only restriction on subdivision at present is condition 2 of planning permission no. W96/0461, which prohibits any subdivision that creates a unit with a sales area of less than 750 sq m. Both of the proposed units would be above this minimum limit. Therefore, the main issue to consider in terms of the impact on the vitality and viability of town centres is the proposal to vary the restriction of goods condition. This reflects the sole matter that was in dispute at the recent public inquiry concerning the previous refusal of planning permission.

In dismissing the appeal, the Inspector found that the variation of condition previously proposed by the applicant would cause unacceptable harm to the vitality and viability of the town centre. The Inspector's concerns related to applicant's proposals that the condition should be varied to permit the sale of home furnishings and sports goods and to allow 25% of the floorspace to be used for unrestricted A1 use. In response to that appeal decision, the applicant has amended the current application to reflect the restriction of goods condition that was agreed by the Council's retail consultant at the appeal. The revised condition now sought keeps the range of permitted goods the same as existing, but adds a degree of flexibility by permitted unrestricted sales in 15% of the floorspace.

The Council's retail consultant has advised that this revised condition would provide adequate protection for the town centre, as long as a further condition is

added to prohibit any further subdivision or amalgamation and to prohibit the installation of any mezzanine floor. This omits the provision for unrestricted sale of home furnishings and sports goods that was a cause for concern for the Inspector as well as reducing the amount of unrestricted A1 floorspace to a suitable level. Therefore, it is considered that these amended proposals would not harm the vitality and viability of the town centre. The amended proposals are therefore considered to be in accordance with the NPPF and Local Plan Policy UAP3.

#### Impact on the living conditions of nearby dwellings

The proposed extensions would be far enough away from neighbouring dwellings to ensure that the proposals would not cause any material loss of light or loss of outlook for those dwellings. In terms of noise, the proposed service yard would be on the same side of the building as the existing service yard. Consequently service vehicles will follow a similar route into the site alongside the boundary with neighbouring dwellings as at present. It is notable that the existing service yard includes materials stored on racking along the boundary with neighbouring dwellings. A Noise Impact Assessment has been submitted with the application and this concludes that the development will be acceptable in terms of noise. Environmental Health have accepted the findings of this Assessment, subject to a condition to require a scheme of works to ensure that noise levels do not cause detriment to the amenity of surrounding residential properties. Environmental Health have also recommended other conditions in relation to deliveries, noise levels and hours of construction work. Subject to these conditions, it is considered that the proposals would not cause unacceptable noise and disturbance for neighbouring dwellings.

#### Impact on the character and appearance of the area

The design and form of the proposed extensions would be in keeping with the appearance of the existing building and other nearby retail warehouses. The alterations to the car park would not result in a material reduction in the amount of landscaping on the site. Therefore it is considered that the proposals would have an acceptable impact on the character and appearance of the area.

#### Car parking and highway safety

The Highway Authority have objected to the current application. However, they raised no objection to the previous application for a similar scheme. In accordance with those previous highway comments, the District Council did not refuse the previous scheme on highway safety grounds (the reason for refusal was solely related to retail impact). Furthermore, in dismissing the appeal against the refusal of that previous scheme the Inspector did not raise any highway safety concerns. As a result, the District Council have no grounds for raising highway safety concerns now. Given the stance taken previously by the Highway Authority, the District Council and the Inspector in relation to that previous scheme, if planning permission was now to be refused on highway safety grounds that would leave the District Council open to an award of costs. Therefore, in accordance with the previous highway comments and the decision of the Inspector, the proposals are considered to be acceptable from a highway safety point of view.

Notwithstanding the above, the applicant has agreed to submit amended plans which should go some way to addressing the issues now raised by WCC Highways. A condition is recommended to secure these changes.

With regard to car parking, the Council's Parking Standards require 163 spaces for the amount of retail floorspace proposed. A total of 120 spaces are proposed (including 16 staff parking spaces). Whilst this would be less than the number of spaces specified in the parking standards, it would be more than the number of spaces available for the existing Homebase store. Therefore it is considered that the parking provision is appropriate.

#### Other matters

It is proposed to install air source heat pumps to meet 10% of the predicted energy requirements of the development. This would meet the requirements of Local Plan Policy DP13 and the associated SPD. No details have been submitted regarding the siting of the air source heat pumps and so a condition is recommended to require full details.

A condition is recommended to deal with the issue of contaminated land.

#### **CONCLUSION / SUMMARY**

The proposals would not harm the vitality and viability of the town centre and would have an acceptable impact on the living conditions of neighbouring dwellings. Furthermore, the proposals are acceptable in terms of car parking and highway safety and would have an acceptable impact on the character and appearance of the area. Therefore it is recommended that planning permission is granted.

#### **CONDITIONS**

- 1 The development hereby permitted shall begin not later than three years from the date of this permission. **REASON:** To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawings A07, A08, A09 & A10, and specification contained therein, submitted on 26 November 2014, except as required by Condition 3 below. **REASON:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.
- 3 Notwithstanding the parking, servicing and access layout shown on the approved plans, no development shall commence until a revised site layout plan has been submitted to and approved in writing by the local planning authority showing:
  - (a) a revised pedestrian access located away from the vehicular access;

and

(b) a revised service yard layout to include sufficient manoeuvring space for delivery vehicles.

The proposed development shall be carried out in strict accordance with this revised site layout plan.

**REASON:** In the interests of highway safety, in accordance with Policy DP6 of the Warwick District Local Plan.

- 4 The development shall be carried out only in full accordance with sample details of the facing and roofing materials which shall have been submitted to and approved in writing by the local planning authority.  
**REASON:** To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the locality in accordance with Policy DP1 of the Warwick District Local Plan 1996-2011.
- 5 The development hereby permitted shall only be undertaken in strict accordance with details of both hard and soft landscaping works which have been submitted to and approved in writing by the local planning authority. Details of hard landscaping works shall include boundary treatment, including full details of the proposed boundary walls, railings and gates to be erected, specifying the colour of the railings and gates; footpaths; and hard surfacing. The hard landscaping works shall be completed in full accordance with the approved details within three months of the first occupation of the development hereby permitted; and all planting shall be carried out in accordance with the approved details in the first planting and seeding seasons following the first occupation. Any tree(s) or shrub(s) which within a period of five years from the completion of the development dies, is removed or becomes in the opinion of the local planning authority seriously damaged, defective or diseased shall be replaced in the next planting season with another of similar size and species, unless the local planning authority gives written consent to any variation. All hedging, tree(s) and shrub(s) shall be planted in accordance with British Standard BS4043 – Transplanting Root-balled Trees and BS4428 – Code of Practice for General Landscape Operations. **REASON:** To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies DP1, DP2 and DP3 of the Warwick District Local Plan 1996-2011.
- 6 The development hereby permitted shall not be commenced unless and until a scheme showing how either a). at least 10% of the predicted energy requirement of the development will be produced on or near to the site from renewable energy resources, or b). a scheme showing how at least 10% of the energy demand of the development and its CO<sup>2</sup> emissions would be reduced through the initial construction methods and materials has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until all the works within the approved scheme have been completed



and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturer's specifications.

**REASON:** To ensure that adequate provision is made for the generation of energy from renewable energy resources or to achieve carbon savings in accordance with the provisions of Policy DP13 in the Warwick District Local Plan 1996-2011.

- 7 No storage shall take place in the open on any part of the site.  
**REASON:** To ensure that an adequate service and parking area is retained within the site in the interests of highway safety and to protect the character and appearance of the area, in accordance with Policies DP1 and DP8 of the Warwick District Local Plan 1996-2011.
- 8 No part of the development shall be occupied unless and until the car parking, cycle parking and manoeuvring areas indicated on the approved drawings have been provided and thereafter those areas shall be kept marked out and available for such use at all times. **REASON:** To ensure that a satisfactory provision of off-street car parking, cycle parking and turning facilities are maintained at all times in the interests of the free flow of traffic and highway safety in accordance with Policies DP6 & DP8 of the Warwick District Local Plan 1996-2011.
- 9 Noise arising from activities or any plant and equipment at these premises, when measured one metre from the façade of any noise sensitive premises, shall not exceed the background noise level by more than 3dB(A) (measured as LAeq(5 minutes)). If the noise in question involves sounds containing a distinguishable, discrete, continuous tone (whine, screech, hiss, hum etc.) or if there are discrete impulses (bangs, clicks, clatters, thumps etc.) or if the noise is irregular enough to attract attention, 5dB(A) shall be added to the measured level.  
**REASON:** To protect the living conditions of nearby dwellings, in accordance with Policies DP2 and DP9 of the Warwick District Local Plan.
- 10 No deliveries (incoming or leaving), or noisy external activities likely to cause nuisance to nearby dwellings, shall take place before 0730 hours or after 2130 hours on Monday to Saturday or before 0900 hours or after 1800 hours on Sundays. **REASON:** To protect the living conditions of nearby dwellings, in accordance with Policies DP2 and DP9 of the Warwick District Local Plan.
- 11 No development shall commence unless and until details of a scheme of works to ensure that environmental noise levels do not cause detriment to the amenity of occupiers in surrounding residential premises has been submitted to and approved in writing by the local planning authority. The development shall not be occupied unless and until the scheme has been implemented in strict accordance with the approved details. The noise mitigation measures shall remain in place at all times thereafter. Any submitted scheme should have specific consideration for noise arising from delivery activities and the use of the proposed service yard area. **REASON:** To protect the living conditions of nearby dwellings, in accordance with Policies DP2 and DP9 of the Warwick

District Local Plan.

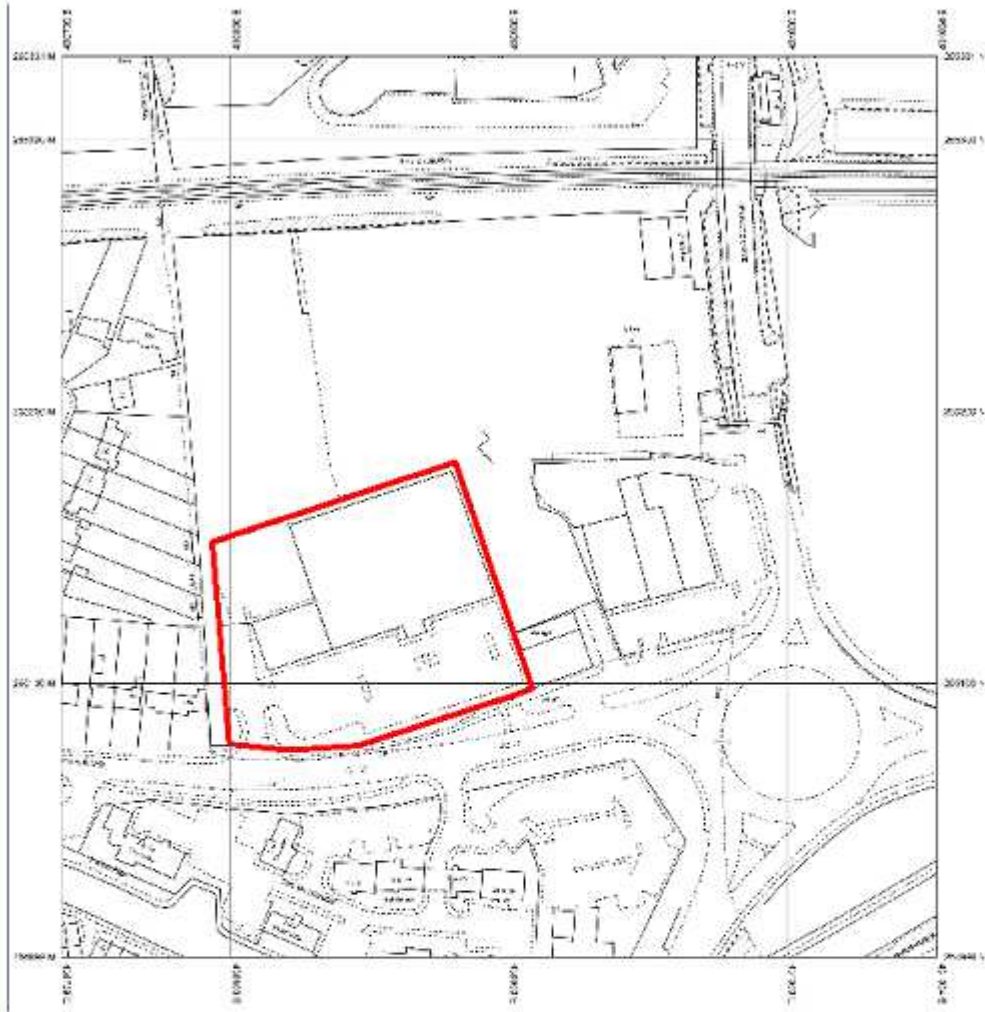
- 12 Best practicable means shall be employed at all times to control noise and dust on the site during the construction process. Construction work which is likely to give rise to noise nuisance shall only take place between 0730 hours and 1700 hours on Monday to Friday or between 0730 hours and 1300 hours on Saturdays and not at all on Sundays or Bank Holidays. Construction delivery vehicles shall not be permitted to arrive on site before 0800 hours or after 1630 hours on Mondays to Fridays or before 0800 hours or after 1300 hours on Saturdays. There shall be no construction deliveries on Sundays or Bank Holidays.  
**REASON:** To protect the living conditions of nearby dwellings, in accordance with Policies DP2 and DP9 of the Warwick District Local Plan.
- 13 The development hereby permitted shall not commence until: -
- (1) (a) A site investigation has been designed for the site using the information obtained from the desk-top study and any diagrammatical representations (conceptual model). This must be submitted to and approved in writing by the local planning authority prior to that investigation being carried out. The investigation must be comprehensive enough to enable:
- a risk assessment to be undertaken relating to human health;
  - a risk assessment to be undertaken relating to groundwater and surface waters associated on and off site that may be affected;
  - an appropriate gas risk assessment to be undertaken;
  - refinement of the conceptual model; and
  - the development of a method statement detailing the remediation requirements.
- (b) The site investigation has been undertaken in accordance with details approved by the local planning authority and a risk assessment has been undertaken.
- (c) A method statement detailing the remediation requirements, including measures to minimise the impact on ground and surface waters using the information obtained from the site investigation, has been submitted to the local planning authority. The method statement shall include details of how the remediation works will be validated upon completion and shall be approved in writing by the local planning authority prior to the remediation being carried out on the site.
- (2) All development of the site shall accord with the approved method statement.
- (3) If during development, contamination not previously identified, is found to be present at the site then no further development shall take place (unless an addendum to the method statement, detailing how the unsuspected contamination shall be dealt with, has been submitted to and approved in writing by the local

planning authority). This addendum to the method statement must detail how this unsuspected contamination shall be dealt with.

- (4) Upon completion of the remediation detailed in the method statement a report shall be submitted to the local planning authority that provides verification that the required works regarding contamination have been carried out in accordance with the approved method statement. Post remediation sampling and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met. Future monitoring proposals and reporting shall also be detailed in the report.

**REASON:** To safeguard health, safety and the environment in accordance with Policies DP2, DP3 & DP9 of the Warwick District Local Plan 1996-2011.

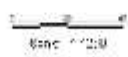
- 14 The premises hereby permitted shall not be used for the sale of food or other convenience goods. The sale of clothing, shoes, sports goods, fashion accessories, jewellery and home furnishings (other than beds and furniture) shall be allowed in no more than 15% of the permitted sales area of unit 1 (i.e. 15% of 1,584m<sup>2</sup> net) and 15% of the permitted sales area of unit 2 (i.e. 15% of 1,016m<sup>2</sup> net). **REASON:** To protect the vitality and viability of town centres, in accordance with Policy UAP3 of the Warwick District Local Plan.
- 15 The building shall be subdivided in strict accordance with drawing nos. A08 and A09 to provide two separate units with floor areas of 1,980 sq. m (Unit A) and 1,270 sq. m (Unit B). These two units shall not be further subdivided or amalgamated in any way. No further floorspace shall be created by the installation of any mezzanine floor. **REASON:** To protect the vitality and viability of town centres, in accordance with Policy UAP3 of the Warwick District Local Plan.



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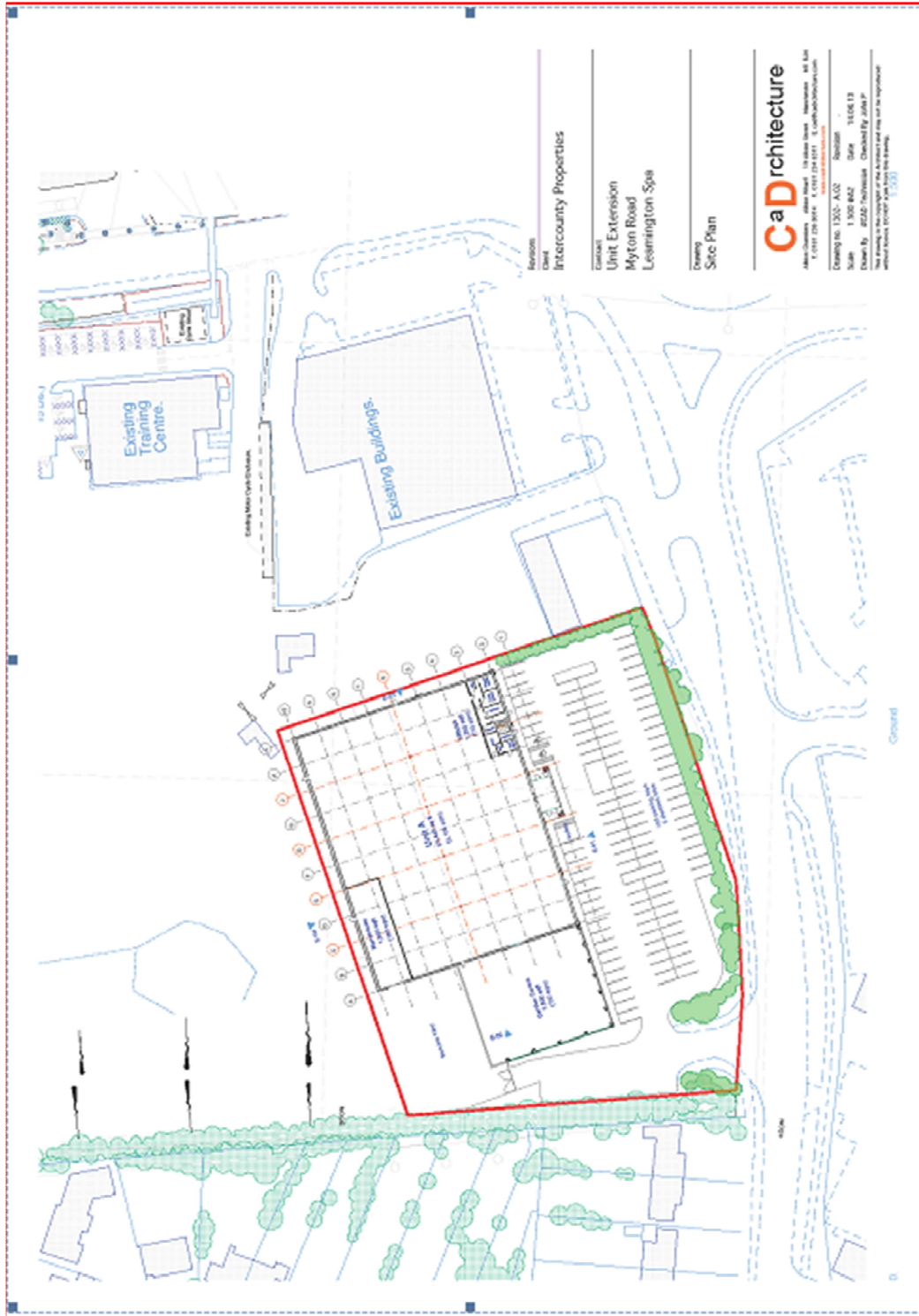
**Project:**  
 Unit Extension  
 Myton Road  
 Leamington Spa

**Drawing:**  
 Location Map

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 Contract: Unit Extension  
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 Drawing: Site Plan  
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 Scale: 1:500 (A2) Date: 15/08/13  
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