

Application No: W 10 / 1310

Town/Parish Council: Leamington Spa

Case Officer: Gary Stephens

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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 matter is being reported to Planning Committee as it relates to a request to vary a Section 106 Agreement agreed by Planning Committee at its meeting on 16th August 2011.

RECOMMENDATION

REFUSE the request to vary the Section 106 Agreement to remove Section 9 of the Section 106 Agreement dated 5th October related to W/10/1310, but to agree to the request to remove paragraph 9.1.3 of the aforementioned Section 9.

SUMMARY OF REPRESENTATIONS

There is no consultation necessary.

RELEVANT POLICIES

- Station Area Planning and Development Brief (Supplementary Planning Guidance - September 2008)
- SC2 - Protecting Employment Land and Buildings (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)
- National Planning Policy Framework

PLANNING HISTORY

Following the Planning Committee decision of August 2011, the above planning application was granted planning permission subject to a Section 106 Agreement on October 5th 2011. Works commenced in 2011 and the retail store is due to open in Spring 2013.

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 and of relevance to this report 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.

Details of the Request

The applicant has applied to the Council to remove Section 9 of the Section 106 Agreement dated 5th October. Section 9 required the owner to market the headquarters office for a period of not less than 3 years from the grant of permission; to provide the Council with an annual report setting out the interest and any actions undertaken; and not to promote or apply for planning permission for any other use classes or material amendments to the headquarters office for a period of 3 years from the grant of planning permission.

The applicant has provided information on the marketing it has undertaken in accordance with Section 9. This was carried out by Savills for a period of 18 months before the signing of the Section 106 agreement and subsequently by Richard Hardy at Bromwich Hardy. This has not been successful. A marketing report has been submitted to the Council setting out the details.

Whilst this exercise highlighted one potential occupier, their requirement for new accommodation has now fallen away. The developer's marketing agent advises of the continued weak demand for large scale office relocations, particularly given the considerable amount of vacant existing office space within the sub-region which makes new building uneconomic. In these conditions, they are of the opinion that the site will remain void for some years to come and that it will be at least five years before there is any realistic opportunity of a letting of this size.

The applicant therefore seeks the removal of the requirement, to allow the possibility of other economic development uses on the site to be explored with the Council and other stakeholders. Any alternative uses would need to be the subject of an application for planning permission.

Notwithstanding the above, the applicant has subsequently confirmed it would also be prepared to accept Section 9 being varied to only remove the final

obligation on them, i.e. not to promote or apply for planning permission for any other use classes or material amendments to the headquarters office for a period of 3 years from the grant of planning permission. In this scenario, the owner would continue to market the headquarters office for a period of not less than 3 years from the grant of permission; and provide the Council with an annual report setting out the interest and any actions undertaken

Assessment

The main issue relevant to the consideration of this application relates to the loss of employment land and the material considerations that warranted the grant of planning permission for the foodstore.

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 applicant argued at the time of the application that an employment-led mixed use development as envisaged by the Station Area 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 was unlikely to be secured in the then economic climate and would not be undertaken on a speculative basis. It was argued there was 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 and clearance of the site ready for development.

The applicant could not give any guarantee that the offices would come forward in any set timescale given the current market conditions. However, they offered to submit an annual report to the Council setting out the steps they would take to market and implement the office element of the proposed development. This gave the Council an opportunity to monitor the marketing exercise and ensure that the applicant was making best endeavours to secure potential occupiers.

Taking this into account, on balance, both officers and Committee accepted the applicant's arguments on this issue and did not consider that it would be appropriate to impose any restrictions to require the offices to be developed within a set timescale.

The clear basis for granting permission for the foodstore contrary to Policy SC2 of the Local Plan was to assist with the regeneration of the area as envisaged by the Council's Brief and the delivery of a high quality office building at what was recognised as a key gateway site within the town and close to the train station. The clearance and decontamination of the site, substantial investment in highway infrastructure, and the subsequent marketing of the opportunity were acknowledged as key components to assist with the delivery of the Brief for this site.

Although the site is now clear and ready for development, the highway works are yet to be completed, and the site has only been marketed since the grant of

planning permission for offices from September 2011 (some 16 months). The Section 106 Agreement envisaged marketing for a period of not less than 3 years given the timescales involved in delivering the site and necessary infrastructure, and the current market conditions for office developments.

In these circumstances, it is not considered that the applicant has given sufficient time to allow the development as a whole to be realised in accordance with Policy SC2 of the Local Plan and that to stop marketing the site and to consider alternative uses now would remove an obligation on the applicant that was a key material consideration that weighed in favour of the Council's grant of planning permission in 2011.

Whilst it is acknowledged that the demand for headquarters style office accommodation remains weak given the supply of vacant existing office space within the sub-region, and that other alternative uses may bring economic benefits, these reasons are not considered sufficient grounds to set aside the obligation at this time.

However, in relation to the subsequent request to vary Section 9 to only remove the final obligation, i.e. not to promote or apply for planning permission for any other use classes or material amendments to the headquarters office for a period of 3 years from the grant of planning permission, it is considered that the release of this obligation would not be unreasonable. The owner would still be required to market the site for offices for the same period as before (3 years) and, in the event that a planning application was submitted to the Council for alternative uses, the Council would still have control over the use of the land as local planning authority.

The owner has recently attended the Council's Proposed Development Review Forum and presented proposals for a potential retail development on this site. Such application would have to be assessed against the relevant policies of the development plan and/or the NPPF, which presently requires retail development to be refused in such locations when sites are available within or on the edge of the town centres; or when there will be significant adverse impacts on the town centres.

RECOMMENDATION

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