

Application No:W13 / 0208

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

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

Erection of petrol filling station with kiosk and ancillary facilities including car wash and jet wash, served by amended arrangement off Old Warwick Road (revised application following refusal of planning application no. W12/1507)FOR Trilogy (Leamington Spa) Ltd

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 a petrol filling station to include the following:

- forecourt incorporating fuel pumps covered by a canopy;
- sales building;
- jet wash; and
- car wash.

The current application differs from the scheme that was recently refused planning permission in that the storage and servicing tanks have been relocated from the western edge of the forecourt to the southern edge of the forecourt. This change has required the proposed parking spaces to be relocated from the southern edge of the forecourt to the western edge of the forecourt. The current application is also accompanied by additional highways information.

THE SITE AND ITS LOCATION

The application relates to part of the former Ford Foundry site. A supermarket is currently under construction on the centre of the former Foundry site and the current application relates to land to the east of this. A railway line runs along the northern boundary of the site. The site has a frontage to Old Warwick Road, which runs along the southern boundary. To the east the site adjoins the Spa Garage, Jewsons and Travis Perkins. The former Foundry buildings have been removed and this is now a vacant site pending redevelopment.

PLANNING HISTORY

The application site forms part of a larger site for which planning permission was granted in 2010 for "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 (Use Class B8) (of up to 7,000sqm GIA), 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" (Ref. W10/1310).

In February 2013 planning permission was refused under delegated powers for "Erection of petrol filling station with kiosk and ancillary facilities including car wash and jet wash served by amended arrangement off Old Warwick Road" (Ref. W12/1507). The reason for refusal was as follows:

"The trip generation and distribution information contained within the Transport Assessment is considered to be inadequate to allow a proper assessment of the impact of the proposals on the surrounding highway network. Therefore, in the opinion of the Local Planning Authority, insufficient information has been submitted to demonstrate that the proposals would not cause harm to highway safety."

An appeal has subsequently been submitted against this refusal of permission but no decision has yet been made in relation to that appeal.

RELEVANT POLICIES

- 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)
- DP7 - Traffic Generation (Warwick District Local Plan 1996 - 2011)
- DP9 - Pollution Control (Warwick District Local Plan 1996 - 2011)
- DP11 - Drainage (Warwick District Local Plan 1996 - 2011)
- DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)
- UAP3 - Directing New Retail Development (Warwick District Local Plan 1996 - 2011)
- SC2 - Protecting Employment Land and Buildings (Warwick District Local Plan 1996 - 2011)
- Sustainable Buildings (Supplementary Planning Document - December 2008)
- National Planning Policy Framework (in particular the definitions in Annex 2)

SUMMARY OF REPRESENTATIONS

Town Council: Object. The vehicular ingress and egress at its junction with Old Warwick Road will impact adversely on highway and pedestrian safety due to the proposed traffic movements.

Cllr Knight: No objection.

Cllr Gill: No objection.

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

Environment Agency: No objection, subject to conditions.

Network Rail: No objection. Make comments regarding drainage and safety requirements in relation to construction works in close proximity to the railway.

Canal & River Trust: No objection.

Inland Waterways Association: Comment that the passing boaters are well supplied with mooring facilities at the relatively nearby Lidl and Tesco stores. The developers could consider providing mooring facilities on the Grand Union Canal adjacent to their site.

WCC Highways: No objection, subject to conditions.

WCC Ecology: No ecological concerns pre-development. Post development concerns relate to drainage of the site. Therefore recommend a condition is imposed to require drainage details. Also recommend a note regarding indigenous planting.

WDC Environmental Health: No objection.

ASSESSMENT

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

- principle of development;
- 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
- the requirement for 10% on-site renewable energy production.

Principle of development

A petrol filling station is a sui generis use and therefore is not a main town centre use as defined in the NPPF. In view of its limited size, the retail area of the sales building would be ancillary to the primary use as a petrol filling station. Consequently Local Plan Policy UAP3 and the NPPF provisions directing retail development to town centre locations do not apply. Therefore, subject to the resolution of any issues relating to the loss of employment land (addressed below), there are no policy grounds for objecting to the erection of a petrol filling station on this previously developed urban site.

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 also noted that this would 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 scheme that was approved in 2010 was for a foodstore, offices and a hotel. This was approved on the grounds that an employment-led mixed use development as envisaged by the Development Brief would not be viable due to the costs of site clearance, decontamination, infrastructure, and given the limited existing demand for offices and apartments.

The 2010 planning permission showed a hotel on the part of the site that is now proposed to accommodate a petrol filling station. This established the principle of a non-employment use on this part of the Foundry site. A hotel would be an economic development use as defined in the NPPF and it is considered that a petrol filling station would also be an economic development use. Therefore the current proposals are to change from one economic development use to another. In this context, it is considered that the revised use for this part of the site would be in accordance with criterion (b) Local Plan Policy SC2, taking into account the 2010 planning permission for a non-employment, economic development use for this part of the Foundry site.

Highway safety

The Highway Authority objected to the previous application on the grounds that the trip generation and distribution information contained within the Transport Assessment was inadequate to allow a proper assessment of the impact of the proposals on the surrounding highway network. However, the current application is accompanied by additional highways information. The Highway Authority have confirmed that this additional information has addressed their concerns and have raised no objection to the current proposals, subject to conditions. Therefore it has been concluded that the proposals would be acceptable from a highway safety point of view. The comments of the Town Council are noted, but the Highway Authority have determined that the proposals are acceptable in relation to the issues raised.

Impact on the character and appearance of the area

The proposed petrol filling station would be set back from the road behind an open frontage. This part of Old Warwick Road is varied in character, with the substantial new foodstore to the west of the site and development of a more

industrial character to the east including a car repair garage and a pair of builder's merchants. In this context it is considered that the proposed petrol filling station would be an appropriate feature for this location (and one that would be expected to be viewed alongside a large foodstore). Therefore it is considered that the proposals would have an acceptable impact on the character and appearance of the area.

Impact on the living conditions of nearby dwellings

The nearest dwellings are some distance away (approximately 100m to the south in Westlea Road and Bury Road). All of the nearest dwellings are also separated from the application site by busy roads or the railway line. In view of these separation distances and in the context of the busy commercial nature of this locality, it is not considered that the proposals would give rise to any significant issues in terms of noise and disturbance for neighbours or in terms of the visual impact of the proposals. No objection has been raised by Environmental Health.

Requirement for 10% on-site renewable energy production

The applicant has submitted information to demonstrate that the renewable energy provision that has been incorporated on the new foodstore is sufficient to meet 10% of the predicted energy requirements for the foodstore and the petrol filling station combined. Consequently, it is not necessary to provide further renewable energy proposals specific to the petrol filling station.

Other matters

The development is considered to have an appropriate relationship with the adjacent commercial premises.

The issues raised by Network Rail are governed by other legislation. A copy of their comments have been forwarded to the applicant for information.

The application was accompanied by supplementary reports relating to flood risk, contamination, archaeology, ecology and air quality to update the main reports on those issues that were submitted in relation to the previous application for the whole Foundry site. No objections have been received from any of the relevant consultees in relation to these issues and therefore it has been concluded that the proposed development would be acceptable in relation to all of these issues, subject to conditions.

The comments of the Inland Waterways Association are noted. However, it is not considered that the provision of additional moorings on the canal would be reasonably related to a petrol filling station development. Consequently there is insufficient justification to require these to be provided.

SUMMARY/CONCLUSION

It has been concluded that the proposals would not cause unacceptable harm to the living conditions of neighbouring dwellings or to the character and appearance of the area. Furthermore, it is considered that this is an appropriate location for a petrol filling station and that the proposals would be acceptable in terms of highway safety and in terms of policies relating to the protection of

employment land. Therefore it would be appropriate for planning permission to be granted, subject to conditions.

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 drawing(s) B944/1256 P7 & B944/1257 P1, and specification contained therein, submitted on 21 February 2013. **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 The development shall be carried out only in full accordance with sample details of 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.
- 4 The petrol filling station hereby permitted shall not be brought into use unless and until:
 - (a) details of revisions to the on-carriageway cycle lane markings, dropped kerb and associated tactile paving on the Old Warwick Road westbound approach to the site access signal junction have been submitted to and approved in writing by the local planning authority (to move these features to a point approximately 35m east of the existing approved position); and
 - (b) the revised cycle lane markings, dropped kerb and associated tactile paving have been completed in strict accordance with the details approved under (a).

REASON : In the interests of highway safety, in accordance with the requirements of Policy DP6 of the Warwick District Local Plan 1996-2011.
- 5 The development hereby permitted shall be carried out in strict accordance with details of surface and foul water drainage works that shall have been submitted to and approved in writing by the local planning authority. This shall include details of how the scheme will be maintained and managed after completion. The surface water drainage scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development. The drainage strategy should demonstrate that the surface water run-off generated up to and including the 1 in 100 year 20% critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. **REASON:** To ensure that adequate drainage facilities are available for the satisfactory and proper

development of the site and to prevent the increased risk of flooding, in accordance with Policy DP11 of the Warwick District Local Plan 1996-2011.

- 6 No development shall take place until details of a scheme for the installation of the underground tank(s) has been submitted to and approved in writing by the local planning authority. The scheme shall include full structural details of the installation, including details of excavation, the tank(s), tank surround, associated pipework and monitoring system. The scheme shall be implemented and maintained in strict accordance with the approved details. **REASON :** To protect the groundwater quality of the area, in accordance with Local Plan Policy DP9.
- 7 The development hereby permitted shall only be undertaken in strict accordance with details of both hard and soft landscaping works which shall 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 petrol filling station 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.
- 8 The petrol filling station hereby permitted shall not be brought into use unless and until the following highway works (as shown on the approved plans for planning permission no. W10/1310) have been completed in strict accordance with the approved plans (as amended by condition 4 above):
 - (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.

- 9 The proposed car parking area for the petrol filling station hereby permitted shall be constructed, surfaced, laid out and available for use prior to the first use of any part of the development 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 petrol filling station hereby permitted. **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.
- 10 If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until a remediation strategy detailing how this unsuspected contamination will be dealt with has been submitted to and approved in writing by the local planning authority. The remediation strategy shall be implemented in strict accordance with the approved details. **REASON:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policies DP3 & DP9 of the Warwick District Local Plan 1996-2011.
- 11 No deliveries shall take place to or from the petrol filling station hereby permitted 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.
- 12 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.
- 13 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.

- 14 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.

 - 15 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.
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