

**Application No:** W 11 / 1367

**Town/Parish Council:** Warwick

**Registration Date:** 21/09/11

**Case Officer:**

Liam D'Onofrio

**Expiry Date:** 16/11/11

01926 456527 planning\_west@warwickdc.gov.uk

**Opus 40, Birmingham Road, Warwick**

Application for the Variation of Pre-Commencement condition 6 of planning permission W10/0073 (Outline application for class B1 (a/b) business development, a single storey estate office, and formation of new access onto Stanks Island and the closure of the existing access into Birmingham Road along with supporting infrastructure). FOR Opus Land

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The application was considered by Planning Committee on 17th January 2012 when it was resolved that planning permission should be granted subject to the completion of a Section 106 agreement. The application is being reported back to Committee because the Section 106 agreement has not been completed.

**RECOMMENDATION**

Planning Committee are recommended to resolve to grant planning permission, subject to conditions and the completion of a Section 106 agreement to secure a Green Travel Plan. If the agreement has not been completed by 30th November 2012 to allow the delegated refusal of planning permission due to the failure to provide a Green Travel Plan as required by Policy DP7 of the Local Plan.

**DETAILS OF DEVELOPMENT**

See previous report, attached as an appendix.

**THE SITE AND ITS LOCATION**

See previous report, attached as an appendix.

**PLANNING HISTORY**

See previous report, attached as an appendix.

**RELEVANT POLICIES**

See previous report, attached as an appendix.

**SUMMARY OF REPRESENTATIONS**

See previous report, attached as an appendix.

## **ASSESSMENT**

A full assessment of all the issues relevant to this application is contained within the previous report to Committee, which has been attached as an appendix. The development and proposed variation to the wording of condition 6 remain acceptable for the reasons stated in the original report. This was acceptable by Planning Committee at the meeting on 17th January 2012 when it was resolved that planning permission should be granted. Officers have sought to progress the S106 but it is yet to be completed. Given the length of time that has elapsed since the resolution to grant permission, it is considered that the application should be brought back to Committee.

The applicant advises that the S106 should be completed before the end of November and it is therefore considered appropriate for a deadline of 30th November 2012 to be imposed. If this deadline is not met it is recommended that planning permission be refused, as the scheme would fail to provide a required Green Travel Plan.

## **CONCLUSION/SUMMARY**

Given the recent decision to grant permission in January 2012 and the fact that there has been no change in local planning policies it is the opinion of the Local Planning Authority that the proposal remains in accordance with policies listed in the original report.

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**Planning Committee:** 17 January 2012

**Item Number:**

**Application No:** W 11 / 1367

**Town/Parish Council:** Warwick  
**Case Officer:** Steven Wallsgrove  
01926 456527 planning\_west@warwickdc.gov.uk

**Registration Date:** 21/09/11

**Expiry Date:** 16/11/11

**Opus 40, Birmingham Road, Warwick**

Application for the Variation of Pre-Commencement condition 6 of planning permission W10/0073 (Outline application for class B1 (a/b) business development, a single storey estate office, and formation of new access onto Stanks Island and the closure of the existing access into Birmingham Road along with supporting infrastructure). FOR Opus Land

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The application is being reported due to the need for the previous S106 Agreement to be amended or replaced.

**SUMMARY OF REPRESENTATIONS**

**Warwick Town Council :** No objections.

**WCC (Highways):** No objection.

**Highways Agency:** Direct that the applicants proposed condition be imposed.

**Public Comment:** One objection has been received on grounds of traffic generation, access, noise and disturbance, although the details of the objection only refer to traffic generation and allege that the information supplied is guesswork and claim that HGV's going to the site will have to go into the middle of the Birmingham Road.

**RELEVANT POLICIES**

- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP6 - Access (Warwick District Local Plan 1996 - 2011)
- DP7 - Traffic Generation (Warwick District Local Plan 1996 - 2011)

**PLANNING HISTORY**

Outline planning permission for Class B1 (a/b) business development, and detailed permission for a new road junction, was approved on this site under W10/0073, subject to conditions and a S106 Agreement for a Green Travel Plan.

**KEY ISSUES**

**The Site and its Location**

This land, bordering Birmingham Road and the Warwick by-pass, was part of the parking provision for the IBM site, developed as an office park in the mid-1970s. This area was well-landscaped with trees which have now matured.

### **Details of the Development**

The present application is to vary condition No. 6 on the existing permission. This states that "The development shall not be commenced until the highway works [defined by reference to plan numbers] have been completed to the written satisfaction of the Local Planning Authority, in consultation with the Highways Agency." The proposal is to replace the word "commenced" with the word "occupied", and to add "and the Local Highway Authority" at the end of the condition.

### **Assessment**

The sole issue in this case is whether this change of wording is acceptable, the original wording being that directed to be applied by the Highways Agency.

The applicants have been in consultation with both the Highway Authority and the Highways Agency and, as can be seen from the consultation responses, both have agreed to the change. This is on the basis that the traffic problems that may be created are related to the use of the buildings themselves, not the construction traffic. This opinion is considered to be supported by the fact that there have been no known problems during the construction of the hotel on another part of the former IBM site, also accessed from the private estate road.

It is considered, therefore, that the change of wording to this condition is acceptable.

### **RECOMMENDATION**

That planning permission be GRANTED, subject to all of the original conditions but with condition 6 being amended, after completion of a replacement S106 Agreement for a Green Travel Plan, or a Deed of Variation.

### **CONDITIONS**

- 1 This permission is granted under the provisions of Article 3(1) of the Town and Country Planning (General Development Procedure) Order 1995, on an outline application and the further approval of the District Planning Authority shall be required to the under-mentioned matters hereby reserved before any development is commenced:-
  - (a) the layout and appearance of the proposed development,
  - (b) details of landscaping.

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

- 2 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 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.

- 3 The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved. **REASON** : To comply with Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 4 The development hereby permitted shall be carried out strictly in accordance with the details shown on the approved drawing(s) CD09-046/203H, 204/D, 205/E, 209, 210/B, /211/A, 212/A and specification contained therein, submitted on 10 June 2010, 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 The reserved matters referred to above shall be broadly in accordance with the details shown on the submitted drawings numbers CD09-046/207/A, /208/A, [L910/06-02F](#), [L910/06-03C](#), [L910/06-05C](#), [L910/06-08C](#), 05105/0201/G, & 0202/B and specifications contained therein and in the supporting reports, submitted on 26 January 2010 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.
- 6 The development shall not be occupied until the highway works defined on approved drawing numbers CD-046-203H, CD-046-204D, CD-046-205E, CD-046-209, CD-046-210B, CD-046-211A, and CD-046-212A have been completed to the written satisfaction of the Local Planning Authority, in consultation with both the Highways Agency and the Local Highway Authority. **REASON** : To enable the A46 Trunk Road to continue to be an effective part of the national system of routes for through traffic, in accordance with Section 10 (2) of the Highways Act 1980 and to protect the interest of road safety.
- 7 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 hydro-geological 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 before the development is completed. The scheme shall also include details of how the scheme shall be maintained and managed after completion. **REASON** : To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the system.
- 8 The development hereby permitted shall not be commenced unless and until a scheme showing how 10% of the predicted energy requirement of this development will be produced on site, or in the locality, from

renewable energy resources, has been submitted to and approved in writing by the District Planning Authority. The development shall not be first occupied until all the works within this 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 in accordance with the provisions of Policy DP13 in the Warwick District Local Plan 1996-2011.

9 No development shall be carried out on the site which is the subject of this permission, until details of a security statement and proposals for CCTV have been submitted to and approved by the District Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details. **REASON** : To minimise the potential for crime, in accordance with policy DP14 of the Warwick District Local Plan 1996-2011.

10 No development shall take place until a detailed lighting scheme has been submitted and agreed between the applicant and the local planning authority. In discharging this condition the District Planning Authority expects lighting to be restricted around bat foraging and commuting areas and roosts, and to be kept to a minimum at night across the whole site in order to minimise impact on emerging and foraging bats. This could be achieved in the following ways:

- low pressure sodium lamps should be used in preference to high pressure sodium or mercury lamps
- the brightness of lights should be as low as legally possible
- lighting should be timed to provide some dark periods
- connections to areas important for foraging should contain unlit stretches.

The agreed scheme to be fully implemented before/during development of the site as appropriate. **REASON** : To ensure appropriate measures are taken in relation to protected species.

11 The development shall not be occupied until all parts of the existing access within the public highway not included in the permitted means of access has been closed and the kerb, footway and verge have 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.

12 No development shall be carried out on the site which is the subject of this permission, until details of a management regime to prevent 'rat-running' between the A46 and Wedgnock Lane have been submitted to and approved by the District Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details. **REASON** : In the interests of highway safety, in accordance

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

- 13 No work shall commence until adequate measures have been taken to protect existing trees during development. A barrier, such as a wire fence, should be erected adjacent to the trees before work starts. This fenced area should include a buffer zone of at least 2-3 metres between the development and the hedgerow/edge of the tree canopy. It is important NOT to allow access, or storage of materials within this buffer zone, otherwise soil compaction is likely to occur, with subsequent damage to the tree/hedgerow roots, which may well prove fatal.

**REASON :** To ensure the protection of existing trees during development.

- 14 The recommendations set out in section 4.3 of the Initial Bat Survey, prepared by Middlemarch Environmental Ltd shall be followed in full, during the construction phase and thereafter. **REASON:** To protect wildlife, in accordance with policy DP3 of the Warwick District Local Plan 1996-2011.

- 15 The applicant shall submit a Green Travel Plan to promote sustainable transport choices to the site, the measures proposed to be carried out within the plan to be approved by the Planning Authority in writing, in consultation with the County Council as Highway Authority. The measures (and any variations) so approved shall continue to be implemented in full at all time. The plan shall:

(i) specify targets for the proportion of employees and visitors traveling 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 as part of this application;

(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 in reducing reliance on the use of private motor vehicles in order to promote sustainable transport choices to the site.

- 16 The signalised pedestrian crossing as shown on drawing number CD09-046-203H shall be provided and be made operational before the development is first opened for use. **REASON :** In the interests of

highway and pedestrian safety, in accordance with the requirements of Policy DP6 of the Warwick District Local Plan 1996-2011.

- 17 Prior to approval of reserved matters, plans and particulars in relation to matters of siting and layout of buildings shall be agreed in writing by the Local Planning Authority, in consultation with the Highways Agency, Thereafter the development will be constructed in accordance with the approved plans and particulars unless otherwise agreed in writing. **REASON** : To enable the A46 Trunk Road to continue to be an effective part of the national system of routes for through traffic, in accordance with Section 10 (2) of the Highways Act 1980 and to protect the interest of road safety.
- 18 Prior to commencement of development details of any proposed operational, construction or landscaping works either on, or impacting on, the embankment adjoining the site and the A46 shall be submitted to and agreed in writing by the Local Planning Authority, in consultation with the Highways Agency. Thereafter any such works shall be undertaken in accordance with the details approved under this condition unless otherwise agreed in writing. **REASON** : To enable the A46 Trunk Road to continue to be an effective part of the national system of routes for through traffic, in accordance with Section 10 (2) of the Highways Act 1980 and to protect the interest of road safety.
- 19 Referring to the use classes in the Schedule to the Town and Country Planning (Use Classes) Order 2005, (or in any provision equivalent to those classes in any statutory instrument revoking and re-enacting that Order with or without modification) no more than 5000 sq metres floorspace of the proposed development shall be used for class B1(a) office use and the remaining area shall be used for class B1(b), use for research and development of products or processes. **REASON** : To satisfy the requirements of Planning Policy Statement 4: Planning for Sustainable Economic Growth and those of the West Midlands Regional Spatial Strategy.
- 20 The reserved matters referred to above shall show parking provision for the site in accordance with the policies set out in the Warwick District Council 'Vehicle Parking Standards' Supplementary Planning Document, published November 2007. **REASON** : To ensure compliance with policy DP8 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 traffic danger which would justify a refusal of permission. The proposal is therefore considered to comply with the policies listed.