

**Application No:** [W 22 / 0703](#)

**Town/Parish Council:** Leamington Spa  
**Case Officer:** Helena Obremski

**Registration Date:** 26/04/22  
**Expiry Date:** 26/07/22

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**Former Mothercare Unit, Leamington Shopping Park, Tachbrook Park Drive, Warwick, CV34 6RH**

Variation of condition 2 (plan numbers) of application W/21/0179 to allow for amendments to the approved site plan, principally the inclusion of Armco barrier alongside the highway, addition of a substation and amendment to location of cycle storage. FOR Aldi Stores Limited

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

**Recommendation**

Planning Committee are recommended to GRANT planning permission, subject to the conditions listed in the report and the completion of a satisfactory Section 106 agreement.

Planning Committee are also recommended to delegate authority to the Head of Development Services to finalise the terms of the Section 106 agreement.

Should a satisfactory Section 106 agreement not have been completed by 9th December 2022 and there is no ongoing progress towards the satisfactory completion of the Section 106 Agreement, Planning Committee are recommended to delegate authority to the Head of Development Services to REFUSE planning permission on the grounds that the proposal makes inadequate provision in respect of the issues the subject of that agreement.

**Relevant Planning History**

W/21/0179 - planning permission granted for demolition of existing building and erection of a food retail store (Class E(a)) with associated car parking, servicing and landscaping, off Tachbrook Park Drive.

**The Site and its Location**

The application relates to a former redundant retail unit, which has been demolished following the grant of permission W/21/0179 for a new foodstore, located at an out of town shopping centre within Leamington Spa. The red line site plan also incorporates a modest area of parking currently used by the former Aldi foodstore to the east of the application site. The car parking area serving the

former application property was shared with another large retail unit, positioned to the north west of the application site, which is also owned by the applicant.

Whitnash and Heathcote are located further to the north, south and east of the application and the site is bound to the west by the extensive Leamington Shopping Park.

### **Details of the Development**

The scheme remains the same as implemented permission W/21/0179 and seeks only to vary condition 2 to allow for amendments to the approved site plan, principally the inclusion of Armco barrier alongside the highway, addition of a substation and amendment to the location of a cycle store.

As the scheme remains largely the same as permission W/21/0179, therefore only the above amendments are considered below. Matters not relating to the proposed changes are not considered below.

### **RELEVANT POLICIES**

- National Planning Policy Framework

#### Warwick District Local Plan 2011-2029

- BE1 - Layout and Design
- BE3 - Amenity
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- TR1 - Access and Choice
- TR2 - Traffic generation
- TR3 - Parking
- NE5 - Protection of Natural Resources
- TCP1 - Protecting and Enhancing the Town Centres
- TC2 - Directing Retail Development
- FW2 - Sustainable Urban Drainage
- CC2 - Planning for Renewable Energy and Low Carbon Generation
- CC3 - Buildings Standards Requirements

#### Guidance Documents

- Parking Standards (Supplementary Planning Document- June 2018)
- Distance Separation (Supplementary Planning Guidance)
- The 45 Degree Guideline (Supplementary Planning Guidance)
- Air Quality & Planning Supplementary Planning Document (January 2019)

### **SUMMARY OF REPRESENTATIONS**

**Royal Leamington Spa Town Council:** No objection, subject to no objection from WCC Highways.

**County Councillor Chilvers:** Objection:

- This amended application says the cycle storage has moved, but it still appears to be at the west side of the area, as in the original proposals - queries changes.
- The southern entrance for pedestrians and cyclists off the cycle way is very welcome, but requests clarification:
  - that pedestrians will be able to walk round the path behind the electric chargers and then across the depot entrance and not have to walk into the parking area?
  - why the Sheffield cycle hoops are in the proposed position - this will force cyclists to dismount, but they will still be a long way from the cycle store. To reach the cycle store cyclists are likely to want to cycle through the car park to get there. If you want cyclists to dismount there you need to provide cycle storage at this point. If you aren't going to do that please sign the cycle storage from this point and remove the hoops, or move the hoops to behind the car parking spaces to indicate that cyclists shouldn't cycle along this part of the path.

**Environmental Protection:** No objection, subject to condition.

**Warwick Town Council:** No comment.

**WCC Highways:** No objection, subject to condition.

**Public Responses:**

1 Objection: Currently the cycle route that is proposed next to the external plant is unsafe. On a daily basis cars are driving down the path which would link to this cycle path. This has been reported on a few occasions but still no measures have been put in place to rectify. As this would now create more pedestrian and cycle traffic it would be only a matter of time before someone is seriously hurt.

**Assessment**

The main considerations relevant to the assessment of this application are as follows:

- Design
- Highway Safety
- Impact on Amenity

**Design**

The proposal seeks to amend the site plan, to include a low level Armco barrier, to act as a vehicle restraint along the northern boundary of the site. This would sit immediately next to the public footpath. Owing to its low height and context of the site within a built up commercial area, this additional is not considered to have a harmful impact in design terms.

The inclusion of the substation and change in position of the cycle storage will have minimal impact on the street scene, owing to the set down nature of the site, from the context of public vantage points. Nevertheless a modest substation is not an unusual or out of keeping feature given the built up commercial nature of the area.

The proposal is therefore considered to be in accordance with Local Plan policy BE1.

### Highway Safety

Initially, timber bollards were proposed as a vehicle constraint system; a system of this nature is required to ensure that in the event that vehicles lose control and travel towards the development, that they would not fall into the site as there is a significant change in levels between the highway and majority of the site. This is a necessary highway safety precaution.

WCC Highways had concerns that the timber bollards were not sufficient in protecting vehicular safety in the event of an accident as outlined above. Negotiations between the Highways Authority and applicant concluded that an Armco barrier which continues along the northern boundary of the site was necessary. This has been updated on the proposed plans and has replaced the timber bollards.

WCC Highways now have no objection to the proposed amendments, subject to a condition for the requirement of full details prior to the installation of the barrier. This has been added.

Councillor Chilvers has raised some concerns regarding the proposed changes, and queried whether pedestrians will be able to walk round the path behind the electric chargers and then across the depot entrance, so to not have to walk into the parking area. Councillor Chilvers also queried why the Sheffield cycle hoops are in the proposed position, which he considers which will force cyclists to dismount and walk to access the storage area.

The agent responded to these queries, stating that the footpath clear distance is sufficient to allow pedestrians to walk along the path behind the charging points and across the designated zebra crossing at the top of the loading bay ramp. The footpath clear width is no less than approx. 1.5m in this area.

The agent also noted that the Sheffield hoops are to slow cyclists to a safe speed upon entering the site where there will be a significant amount of pedestrian foot traffic, the intention being to minimise the risk of collision between customers. The hoops will be spaced at 1.2m to still maintain good access through for all users without cyclists needing to dismount.

A member of the public states that currently the cycle route that is proposed next to the external plant is unsafe. They state that on a daily basis cars are driving down the path which would link to this cycle path and that this has been

reported on a few occasions but still no measures have been put in place to rectify. They consider that this is likely to lead to an accident.

Given that WCC Highways have no objection to the proposed layout and the agent has sufficiently explained the changes, Officers consider these matters adequately addressed.

The development is therefore considered to be in accordance with Local Plan policies TR1 and TR3.

### Impact on Amenity

The Environmental Health Officer was consulted and has no objection to the proposed changes, including the provision of the substation on the site.

It is therefore considered that the development is in accordance with Local Plan policy BE3.

### **Conclusion**

The proposed amendments are modest changes to the wider scheme which would have an acceptable impact and are policy compliant. The application is therefore recommended for approval.

### **CONDITIONS**

- 1 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawings:

H20A40-P010 (floor plan), H20A40-P011 (roof plan), H20A40-P021 (elevations), H20A40-P030 (sections), H20A40-P040 (visuals), MEL-467-001-P3 (soft landscaping scheme), submitted on 29th January 2021, and

H20A40-P003 Rev H (site plan), submitted on 20th September 2022,

and specification contained therein. **Reason:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.

- 2 The development hereby permitted shall not commence unless and until tree protection measures have been submitted to and approved in writing by the LPA and the approved measures have been put into place. The approved measures must remain in place for the duration of demolition and construction works. The proposals must refer to all the trees within the site as well as those highway trees on the approach that may be affected by the proposed demolition and re-development, and must include:

a] an arboricultural method statement and tree protection plan in accordance with British Standard BS 5837:2012 Trees in relation to design, demolition and construction – Recommendations, Clause 7 in particular

b] an arboricultural site monitoring protocol that will confirm to the local planning authority by independent examination that the agreed tree protection measures are in place for the duration of the development

**Reason:** In order to protect and preserve existing trees within the site which are of amenity value in accordance with Policies BE1 and NE1 of the Warwick District Local Plan 2011-2029.

3 The development hereby permitted shall not commence unless and until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP shall provide for: the parking of vehicles of site operatives and visitors; site working hours and delivery times; the loading and unloading of plant and materials; the storage of plant and materials used in constructing the development; the erection and maintenance of a security hoarding including decorative displays and facilities for public viewing where appropriate; wheel washing facilities and other measures to ensure that any vehicle, plant or equipment leaving the application site does not carry mud or deposit other materials onto the public highway; measures to control the emission of dust and dirt during construction, together with any details in relation to noise and vibration; and a scheme for recycling / disposing of waste resulting from demolition and construction works. A model CMP can be found on the Council's website ([https://www.warwickdc.gov.uk/downloads/file/5811/construction\\_management\\_plan](https://www.warwickdc.gov.uk/downloads/file/5811/construction_management_plan)) or by searching 'Construction Management Plan'. The development hereby permitted shall only proceed in strict accordance with the approved CMP. **Reason:** In the interests of highway safety and the amenities of the occupiers of nearby properties, the free flow of traffic and the visual amenities of the locality in accordance with Policies BE3, TR1 and NE5 of the Warwick District Local Plan 2011-2029.

4 Prior to commencement of development, a Sustainability Statement including a programme of delivery of all proposed measures shall be submitted to and approved in writing by the Local Planning Authority. The document shall include:

- a) How the development will reduce carbon emissions and utilise renewable energy.
- a) Measures to reduce the need for energy through energy efficiency methods using layout, building orientation, construction techniques and materials and natural ventilation methods to mitigate against rising temperatures.
- a) How proposals will de-carbonise major development.
- a) Details of the building envelope (including U/R values and air tightness).

- a) How the proposed materials respond in terms of embodied carbon.
- a) Consideration of how the potential for energy from decentralised, low carbon and renewable energy sources, including community-led initiatives can be maximised.
- a) How the development optimises the use of multi-functional green infrastructure (including water features, green roofs and planting) for urban cooling, local flood risk management and to provide access to outdoor space for shading,

The development shall not be occupied until the works within the approved scheme have been completed in strict accordance with the approved details and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturer's specifications.

**Reason:** To ensure the creation of well-designed and sustainable buildings and in accordance with Policies CC1 and CC3 of the Warwick District Local Plan (2011-2029) and National Design Guidance (2021).

- 5 Within six months of the first occupation of the development, a report shall be submitted to and approved in writing by the Local Planning Authority demonstrating that the energy efficiency measures detailed within the Stage 4 Carbon Assessment Synopsis and BREEAM GAP assessment have been implemented in full. These measures shall be retained as per the approved details or replaced with a betterment in energy efficiency terms. **Reason:** To deliver reductions in carbon dioxide emissions, building running costs, energy consumption and water use in accordance with the provisions of Policy CC3 in the Warwick District Local Plan 2011-2029.

- 6 No development, other than works of demolition, shall take place until a detailed 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 in consultation with the LLFA. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall:

- Demonstrate that the surface water drainage system(s) are designed in accordance with 'The SuDS Manual', CIRIA Report C753.
- Demonstrate detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details of any attenuation system, and outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm

durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods.

- If discharging to a drainage system maintained/operated by other authorities (Environment Agency, internal drainage board, highway authority, sewerage undertaker, or Canals and River Trust), evidence of consultation and the acceptability of any discharge to their system should be presented for consideration.
- Provide plans and details showing the allowance for exceedance flow and overland flow routing, overland flow routing should look to reduce the impact of an exceedance event.

**Reason:** To ensure that adequate drainage facilities are available for the satisfactory and proper development of the site in accordance with Policies BE1 and FW2 of the Warwick District Local Plan 2011-2029.

7 No development shall be carried out above slab level unless and until a hard landscaping scheme has 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, which shall be made of porous materials or provision shall be made for direct run-off of water from the hard surface to a permeable or porous area. 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. **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 BE1, BE3 and NE4 of the Warwick District Local Plan 2011-2029.

8 Prior to the occupation of the development hereby permitted, the air quality mitigation measures outlined within the BWB technical note (Ref. ALS-BWB-VUT-ZZ-RP-G-0001\_TN, Rev 2, dated 8<sup>th</sup> June 2021) shall be implemented in full. Thereafter the electric vehicle recharging point(s) shall be retained in accordance with the approved details and shall not be removed or altered in any way (unless being upgraded). **Reason:** To ensure mitigation against air quality impacts associated with the proposed development in accordance with Policy NE5 of the Warwick District Local Plan and the Air Quality and Planning Supplementary Planning Document.

9 Within twelve months of the first occupation of the development hereby permitted, the applicant shall submit a Travel Plan to promote sustainable transport choices to the site for approval by the local planning authority in writing. The measures (and any variations) approved shall continue to be implemented at all times thereafter. **Reason:** To ensure mitigation against air quality impacts associated with the proposed development in

accordance with Policy NE5 of the Warwick District Local Plan and the Air Quality and Planning Supplementary Planning Document.

- 10 No deliveries, waste collections or other noisy external activities likely to cause nuisance to nearby residents shall take place before 0700 hours or after 2100 hours on Monday to Saturday or before 0900 hours or after 1800 hours on Sundays. **Reason:** To protect the amenities of occupants of nearby properties in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.
- 11 Noise arising from any plant or equipment (measured as LAeq,5 minutes), when measured (or calculated to) one metre from the façade of any noise sensitive premises, shall not exceed the background noise level (measured as LA90,T). 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 amenities of the occupiers of nearby properties in the locality in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.
- 12 The use of the lighting for the approved development shall be carried out and operated only in full accordance with the external lighting report and specification document prepared by Building Management Technology (Ref. B3621 (79\_E1461), Issue A, dated 11<sup>th</sup> January 2021) and lux plot drawing (Drawing No. 79\_E1461-BMT-XX-XX-DR-E-0105-A3-P01). **Reason:** To ensure that any lighting is operated so as not to detrimentally affect the amenities of the occupiers of nearby properties in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.
- 13 No occupation and subsequent use of the development shall take place until a detailed maintenance plan is implemented and provided to the LPA giving details on how surface water systems shall be maintained and managed for the lifetime of the development. The name of the party responsible, including contact name and details shall be provided to the LPA within the maintenance plan. **Reason:** To ensure the future maintenance of the sustainable drainage structures.
- 14 No development shall be carried out above slab level unless and until samples of the external facing materials to be used have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details. **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 BE1 of the Warwick District Local Plan 2011-2029.

- 15 No development shall be carried out above slab level until details of the finished floor levels of all buildings, together with details of existing and proposed site levels on the application site and the relationship with adjacent land and buildings, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with these approved details. **Reason:** To ensure sufficient information is submitted to demonstrate a satisfactory relationship between the proposed development and adjacent land and buildings in the interests of amenity in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.
- 16 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken, and where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority. **Reason:** To safeguard health, safety and the environment in accordance with Policies BE3 and NE5 of the Warwick District Local Plan 2011-2029.
- 17 The development hereby permitted shall not be occupied until a scheme for the provision of adequate water supplies and fire hydrants necessary for firefighting purposes at the site, has been submitted to and approved in writing by the local Planning Authority. The approved scheme shall be implemented in full prior to occupation of any dwelling to the satisfaction of the Local Planning Authority. **Reason:** In the interests of Public Safety from fire and the protection of Emergency Fire Fighters.
- 18 The development hereby permitted shall be carried out in strict accordance with the approved soft landscaping scheme. 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 the same size and species as that originally planted. 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 BE1, BE3 and NE4 of the Warwick District Local Plan 2011-2029.

- 19 The development hereby permitted shall be carried out to wholly accord with the detailed mitigation and enhancement measures as set out in the document 'Ecological Mitigation Strategy' (Revision B) prepared by Middlemarch Environmental Ltd. **Reason:** To ensure that protected species are not harmed by the development in accordance with the requirements of policy NE2 of Warwick District Local Plan 2011 - 2029. In order to discharge the condition above, a brief report from an ecologist following the bat and bird box installation must be submitted to and approved by the Local Planning Authority (with advice from WCC Ecological Services).
- 20 The development hereby permitted shall not be occupied unless and until the car parking and manoeuvring areas, and cycle parking 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 adequate off-street car parking and servicing facilities in the interests of both highway safety and visual / residential amenity in accordance with Policies BE1, BE3 and TR3 of the Warwick District Local Plan 2011-2029.
- 21 Within one calendar month of the granting of this permission, the Vehicle Restraint System indicated on submitted plan H20A40-P003 Rev H shall be installed in accordance with details to be submitted to and agreed by the Local Planning Authority in conjunction with Highway Authority's Structural Engineer. **Reason:** In the interests of highway safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.
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