

Application No: W 12 / 0447

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

Registration Date: 24/04/12

Expiry Date: 19/06/12

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Land off, Queensway, Leamington Spa

Employment based mixed use development comprising 1 no. detached unit (builders' merchant (sui generis)) and 4 no. terraced units (1 no. tile merchants (sui generis) & 3 no. light industrial, general industrial and/or storage and distribution uses (Use Classes B1 (b & c), B2 & B8)) and associated access, vehicle and cycle parking FOR Deeley Properties Ltd

This application is being reported to Planning Committee to seek confirmation that this represents a suitable alternative employment scheme to meet the requirements of the existing Section 106 agreement for the adjacent proposed Aldi store (planning permission ref. W09/1169).

SUMMARY OF REPRESENTATIONS

Town Council: No objection.

Warwickshire Police: No objection.

Environment Agency: Initially objected on drainage / flood risk grounds, but following the submission of further information on drainage, this objection has been removed. Recommend conditions relating to drainage and contamination.

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

WCC Highways: No objection, subject to conditions.

WCC Planning: Request that the applicant be required to carry out bus stop enhancement works on Tachbrook Park Drive (cost £20,000).

WCC Ecology: No objection. Recommend nesting bird notes.

WCC Fire & Rescue: No objection, subject to a condition to require details of water supplies and fire hydrants.

WDC Environmental Health: No objection.

WDC Waste Management: No objection.

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)
- DP8 - Parking (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)
- UAP2 - Directing New Employment Development (Warwick District Local Plan 1996 - 2011)
- SC2 - Protecting Employment Land and Buildings (Warwick District Local Plan 1996 - 2011)
- SC4 - Supporting Cycle and Pedestrian Facilities (Warwick District Local Plan 1996 - 2011)
- SSP1 - Employment Allocations (Warwick District Local Plan 1996 - 2011)
- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Vehicle Parking Standards (Supplementary Planning Document)

PLANNING HISTORY

This site forms part of a larger area of land formerly occupied by a variety of industrial/commercial buildings, now all demolished, which were the subject of various planning permissions. There were then a number of refusals of planning permission for retail and employment development on this larger site and a subsequent appeal was dismissed.

Finally, in 2010, planning permission was granted for "Erection of a new Aldi retail food store (Use Class A1), with associated car parking and landscaping; erection of business units (Use Classes B1(b) and (c), B2 & B8) and a building for the display and sale of motorcycles (Sui Generis) with associated car parking and landscaping" (W09/1169). This was subject to a Section 106 agreement that prohibits the Aldi store from trading until a suitable employment scheme has been developed.

KEY ISSUES

The Site and its Location

The application relates to part of a larger vacant site situated on the south-western side of Queensway. The current application relates to the south-western part of this larger site, and this part of the site does not front onto Queensway. The current application site is bordered by the other parts of this larger vacant site to the north and north-east, by the industrial buildings of Queensway Trading Estate and the Sikh Temple to the south, by the bowling alley to the west and by the Mothercare retail store to the north-west. There is a strip of land linking the site to Tachbrook Park Drive, although the main bulk of the site is set back from the road behind the bowling alley and Mothercare sites.

The site is currently a cleared former employment site. There are no significant trees within the application site. The surrounding area is predominantly commercial in character.

Details of the Development

The application proposes an employment based mixed use development comprising of 1 no. detached unit (builders' merchant (sui generis)) and 4 no. terraced units (1 no. tile merchants (sui generis) & 3 no. light industrial, general industrial and/or storage and distribution uses (Use Classes B1 (b & c), B2 & B8)) and associated access, vehicle and cycle parking. The development would have an in / out access from Queensway via the existing Queensway Trading Estate access road as well as an "in" only access from Tachbrook Park Drive. The builders' merchants would include a large storage yard.

The Design and Access Statement submitted with the application concludes that the shape and form and uses of the proposed development appear to 'sit happily' with the shape and form and uses of nearby properties and will, on completion, enhance the commercial and employment offering within the District.

Assessment

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

- the principle of permitting this form of development on this allocated employment site;
- the impact on the character and appearance of the area;
- the impact on neighbouring properties;
- car parking and highway safety;
- drainage and contamination;
- renewables; and
- whether this represents a suitable alternative employment scheme in relation to the Aldi Section 106 agreement.

The principle of permitting this form of development on this allocated employment site

Local Plan Policy SSP1 allocates this site for employment use (B1, B2 and B8 uses). However, 2 of the proposed units would not fall within Use Classes B1, B2 or B8 (the builder's merchants and the tile merchants). Nevertheless, these are quasi-employment uses that are commonly found in employment areas and there are only limited suitable alternative locations for such uses. Furthermore, the builder's merchants and tile merchants would generate jobs, albeit the number of jobs is likely to be less than for B1, B2 or B8 uses. In order to mitigate this potential reduction in the number of jobs compared with the approved scheme for this site, the applicant has agreed to enter into a Local Labour Agreement and to provide a contribution of £16,000 towards the running of a local employment scheme, e.g. the Brunswick jobs club. It is considered that these measures would mitigate any potential reduction in the number of jobs compared with a conventional B1, B2 or B8 development. Conditions are recommended to deal with this. Therefore, it is considered that it would be

appropriate for this development to be located on this allocated employment site.

Impact on the character and appearance of the area

The impact of the proposals on the character and appearance of the area would be limited by the fact that the site is set back from surrounding roads, behind other developed sites to the west on Tachbrook Park Drive and behind future development sites to the north and west on Queensway. The design and form of the proposed buildings would be in keeping with this predominantly commercial area. The proposed security fence around the builder's merchants would be an appropriate feature for this backland location. The applicant has confirmed that external storage within the yard of the builder's merchants will be no more than 5m high. This external storage would not have a significant impact on the character and appearance of the area given the screening provided by surrounding developments. The other units do not have space for any significant external storage.

Impact on neighbouring properties

The application site is some distance from the nearest dwellings on the opposite side of Queensway. Furthermore, there are further development sites between the application site and those dwellings (fronting Queensway). Therefore, the proposals would not have a significant impact on the living conditions of any nearby dwellings. The proposals would also have an acceptable relationship with adjacent commercial and community premises.

Car parking and highway safety

The Council's Parking Standards do not include a standard for builder's merchants or tile merchants. However, the standards for employment uses would require 84 spaces for B1(c) light industrial uses, 67 spaces for B2 general industrial uses or 42 spaces for B8 storage and distribution uses. The proposed development includes a total of 64 spaces, which is within this range that is required for employment type uses and therefore this is considered to be an appropriate level of parking provision. Cycle parking has also been provided in accordance with the Parking Standards.

The proposals would be acceptable from a highway safety point of view. There has been no objection from the highway authority, subject to conditions to require various alterations to the accesses and other highway works. A condition is also recommended to secure the provision of the cycleway between Queensway and Tachbrook Park Drive that is to run along the northern boundary of the site.

With regard to the request from the County Planning team for the developer to be required to carry out bus stop enhancement works on Tachbrook Park Drive, it is not considered that such a requirement would be justified in this case. There was no such requirement for the previous larger scheme including the Aldi store, and that scheme included other sustainable transport improvements (construction of a cycle way).

Drainage and contamination

Following the receipt of further information on drainage, the Environment Agency have withdrawn their initial objection to the proposals. Similarly there has been no objection from Environmental Health or Severn Trent. Therefore, subject to the conditions that have been recommended by these consultees, the proposals would be acceptable in terms of drainage and contamination.

Renewables

The requirement for 10% on-site renewable energy production was dealt with by condition on the previous planning permission. Therefore it would be appropriate for this matter to be dealt with by condition on the current planning application.

Whether this represents a suitable alternative employment scheme in relation to the Aldi Section 106 agreement

The previous planning permission that included the application site also approved an Aldi store on adjacent land to the north (Ref. W09/1169). This was subject to a Section 106 agreement to prohibit the Aldi store from trading until either of the following has been completed to shell finish:

- (i) nine of the employment units approved under planning permission no. W09/1169 (which would have been located on the current application site); or
- (ii) an alternative employment scheme that has been confirmed by the Council to be a scheme that delivers similar economic benefits to the employment units approved under planning permission no. W09/1169.

The current application must be considered on its own merits and is considered to be acceptable for the reasons stated above. Therefore it is recommended that the current application is approved. As a separate matter, it is necessary to consider whether the development proposed in the current planning application would meet the requirements of the Aldi Section 106 agreement, i.e. would this scheme deliver similar economic benefits to the employment units approved under planning permission no. W09/1169. It has already been concluded that it would be appropriate for this development to be located on this allocated employment site. Therefore, for the same reasons, it is considered that the scheme delivers similar economic benefits to the employment units approved under planning permission no. W09/1169. It should therefore be confirmed that this represents a suitable alternative employment scheme to meet the requirements of the Aldi Section 106 agreement.

CONCLUSION/SUMMARY OF DECISION

For the purposes of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, 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 highway safety or harm to neighbouring properties which would justify a refusal of permission. The proposal is therefore considered to comply with the policies listed.

RECOMMENDATION

1. GRANT, subject to the conditions listed below.
2. Confirm that this represents a suitable alternative employment scheme to meet the requirements of the Aldi Section 106 agreement.

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years from the date of this permission. **REASON** : To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the application form, site location plan and approved drawing(s) P01G, P02C, P03B, P04A & EW275-100 Rev P1, and specification contained therein, submitted on 18 April 2012 & 23 May 2012, 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.
- 3 Samples of all external facing materials to be used for the construction of the development hereby permitted, shall be submitted to and approved by the District Planning Authority before any constructional works are commenced. Development shall be carried out in accordance with the approved details. **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.
- 4 No development shall be carried out on the site which is the subject of this permission, until satisfactory details of boundary treatment have been submitted to and approved by the District Planning Authority and the development shall not be carried out otherwise than in full accordance with such approved details. **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.
- 5 No development shall be carried out on the site which is the subject of this permission, until details of provision for storage of refuse have been submitted to and approved by the District Planning Authority and the development shall not be carried out otherwise than in full accordance with such approved details. **REASON** : To protect the amenities of occupiers of the site and the character and appearance of the locality, in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.
- 6 No unit hereby permitted shall be first occupied unless and until a scheme showing how 10% of the predicted energy requirement for that unit 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 and all the works within the scheme approved for that unit have been completed; thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturers 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.

- 7 A landscaping scheme for the whole of those parts of the site not to be covered by buildings shall be submitted to and approved by the District Planning Authority before the development hereby permitted is commenced. Such approved scheme shall be completed, in all respects, not later than the first planting season following the completion of the development hereby permitted, and any trees removed, dying, being severely damaged or becoming seriously diseased within five years of planting, shall be replaced by trees of similar size and species to those originally required to be planted. **REASON** : To protect and enhance the amenities of the area, and to satisfy the requirements of Policies DP1 and DP3 of the Warwick District Local Plan 1996-2011.
- 8 The development hereby permitted shall not be commenced until a scheme for the provision of adequate water supplies and fire hydrants, necessary for fire fighting purposes at the site, has been submitted to and approved in writing by the District Planning Authority. The development shall not then be occupied until the scheme has been implemented to the satisfaction of the District Planning Authority. **REASON** : In the interests of fire safety.
- 9 The development hereby permitted shall not be occupied unless and until:
 - (a) a scheme and appropriate details have been submitted to and approved in writing by the local planning authority to provide for the running of a local employment scheme to assist local unemployed people; and
 - (b) the scheme approved under (a) has been implemented in accordance with the approved details, unless otherwise agreed in writing by the District Planning Authority.

REASON: To ensure that the development secures adequate employment benefits for this allocated employment site, in accordance with Policy SSP1 of the Warwick District Plan 1996 – 2011.
- 10 The development hereby permitted shall not commence unless and until details of a Local Labour Agreement to secure local jobs within the construction and operational phases of the development have been submitted to and approved in writing by the Local Planning Authority. The approved Local Labour Agreement shall thereafter be implemented in strict accordance with the approved details. **REASON:** To ensure that the development secures adequate employment benefits for this allocated employment site, in accordance with Policy SSP1 of the Warwick District Plan 1996 – 2011.

- 11 Full details (including noise levels and location) of any plant likely to cause noise outside any building hereby permitted, including air conditioning, ventilation, refrigeration and compaction systems shall be submitted to and be approved in writing by the District Planning Authority before it is first installed. The installation and subsequent operation of the plant shall be undertaken strictly in accordance with the approved details. **REASON** : To protect the amenity of the locality in accordance with Policy DP9 in the Warwick District Local Plan 1996-2011.
- 12 No external lighting or sound amplification or tannoy system shall be installed on any external wall or roof of any building or within the open land comprised in the application site other than in accordance with details first submitted to and approved in writing by the District Planning Authority. **REASON** : To protect the amenity of the occupiers of nearby properties, and to satisfy the requirements of Policy DP9 of the Warwick District Local Plan 1996-2011.
- 13 With the exception of the area identified on the approved plans as the storage yard for the builder's merchants, 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. External storage for the builder's merchants shall not exceed 5m in height. **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.
- 14 The car parks and cycle parking facilities hereby approved shall be constructed, surfaced, laid out and be available for use prior to the first occupation of the development to which they relate. They shall thereafter be retained available for car and cycle parking at all times. **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.
- 15 A scheme for the eradication of all Japanese Knotweed within the site shall be submitted to and be approved in writing by the District Planning Authority before the development hereby permitted is first commenced. Such scheme shall be implemented strictly as so approved. **REASON** : To ensure that the site is available for this development and to ensure a high standard of development in accordance with the requirements of Policy DP1 of the Warwick District Local Plan 1996-2011.
- 16 There shall be no burning of waste within the site at any time and a scheme to ensure the suppression of dust during the construction of the development hereby permitted shall be submitted to and be approved in writing before the commencement of the development hereby permitted. The development shall be carried out strictly as so approved. **REASON** : To protect the amenity of the locality and to ensure a satisfactory form of development in accordance with Policies DP1 and DP2 in the Warwick District Local Plan 1996-2011.
- 17 The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been

submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use. **REASON** : To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Policies DP1 and DP9 in the Warwick District Local Plan 1996-2011.

- 18 Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the District Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:
- 1) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
 - 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - 3) The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the District Planning Authority. The scheme shall be implemented strictly as approved.

REASON : To ensure the protection of controlled waters and to prevent pollution in accordance with Policy DP9 in the Warwick District Local Plan 1996-2011.

- 19 Prior to development being first commenced a verification report demonstrating completion of the works set out in the approved remediation strategy in accordance with Condition 16 above and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages,

maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the District Planning Authority. **REASON** : To ensure the works have been carried out in line with the approved strategy in accordance with Policy DP9 in the Warwick District Local Plan 1996-2011.

- 20 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the District Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the District Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with. **REASON** : To ensure there is a mechanism in place to allow for amendments to the remediation strategy in accordance with the Policy DP9 in the Warwick District Local Plan 1996-2011.
- 21 No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the District Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. **REASON** : To ensure preferential pathways are not created to mobilise contaminants into the underlying groundwater, in accordance with the Policy DP9 in the Warwick District Local Plan 1996-2011.
- 22 Notwithstanding the details shown on the approved plans, the development hereby permitted 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 District Planning Authority together with a schedule of timing for the construction of the proposed works. the development shall be carried out strictly in accordance with the approved details. **REASON** : To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of these, in accordance with Policy DP9 in the Warwick District Local Plan 1996-2011.
- 23 Prior to first occupation of any part of the development hereby permitted the developer is required to carry out the highway improvement works in accordance with a scheme approved in writing by the District Planning Authority in consultation with the Highway Authority so as to provide for the following:
- (i) Widening of the existing section of footway between the cycleway/pedestrian crossing signals on the public highway Queensway, located to the east and west of the application site, to provide for a 2.5 metre shared facility connecting these two points.
 - (ii) Improvements of the existing access junction and carriageway/footways to the development site via the public highway Queensway Trading Estate.
 - (iii) The existing access within the public highway to the western boundary of the site shall be closed with the kerb line, footway and verge reinstated, whilst retaining/remodelling the adjacent service access to ensure satisfactory provision for service vehicles associated

with the adjacent site is maintained, all to be in accordance with the standard specification of the Highway Authority.

(iv) Provision of a shared cycleway/pedestrian link between Queensway and Tachbrook Park Drive. **REASON** : To ensure the provision of satisfactory site access and highway safety in accordance with Policy DP6 of Warwick District Local Plan 1996-2011.

24 No part of the development hereby permitted shall be first occupied unless and until:

(i) The development shall not be occupied until the existing vehicular access to the site from the public highway Tachbrook Park Drive has been remodelled so as to provide a carriageway width of 5.3 metres over an initial distance of 7.5 metres as measured from the near edge of the public highway carriageway, narrowing to 4.0 metres from thereon to the junction with the main internal access road leading into the site.

(ii) The access to the site from the public highway Tachbrook Park Drive for vehicles shall not be used until it has been provided with not less than a 6.0 metre kerbed radius turnout on the southern side and a 9.0 metre kerbed radius turnout on the northern side of the access.

(iii) The access to the site from the public highways Tachbrook Park Drive shall not be used unless the bellmouth has been laid out and constructed within the public highway in accordance with the standard specification of the Highway Authority.

(iv) Barriers erected at the access to the site from the public highway Tachbrook Park Drive for vehicles shall not be hung so as to be within 12.0 metres of the near edge of the public highway carriageway.

(v) Egress from the site onto the public highway Tachbrook Park Drive shall be prohibited by the installation of direction traffic control flow plates within the access.

(vi) The development shall not be occupied until the access/egress for vehicles to the south-western boundary of the site has been provided to the site not less than 6.1 metres or greater than 7.3 metres in width at any point.

(vii) The access/egress to the site from the proposed internal access road to the site from the existing public highway (D4603) shall not be used until it has been provided with a 6.0 metre kerbed radius turnouts on the western side and a minimum of 10.5 metres of the eastern side of the access.

(viii) Gates/barriers erected at the proposed access/egress for all associated vehicles serving the proposed internal access road from the existing public highway (D4603) shall not be hung so as to open to within 10.0 metres of the near edge of the public highway carriageway.

(ix) The gradient of the accesses for vehicles to the site shall not be steeper than 1 in 15 for a distance of 20.0 metres, as measured from the near edge of the public highway carriageway.

(x) The accesses to the site shall be not constructed/reconstructed in such a manner as to reduce the effective capacity of any drain within the limits of the public highway.

(xi) The construction of the estate roads serving the development including footways/cycleways and verges shall not be other than in accordance with the standard specification of the Highway Authority.

(xii) The development shall not be occupied until space has been provided within the site for parking and loading/unloading of all

associated vehicles in accordance with details to be approved in writing by the District Planning Authority.

(xiii) Egress from the site onto the public highway Tachbrook Park Drive shall be prohibited by the installation of direction traffic control flow plates within the access.

(xiv) The applicant shall submit a 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 District Planning Authority in writing, in consultation with the Highway Authority. The measures (and any variations) so approved shall continue to be implemented in full at all time. The plan shall:-

a) specify targets for the proportion of employees and visitors travelling 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;

b) set out measures designed to achieve those targets together with timescales and arrangements for their monitoring, review and continuous improvement;

c) require the occupier of each business unit to identify a senior manager of the business using the unit with overall responsibility for the plan and a scheme for involving employees of the business in its implementation and development.

REASON: To ensure the provision of a satisfactory site access and highway safety in accordance with Policy DP6 of the Warwick District Local Plan 1996-2011.
