

Application No: 11/00266/F	Ward: Banbury Grimsbury and Castle	Date Valid: 22 February 2011
Applicant:	Colin Knott and Jon Cookson Joint Fixed Charge Receivers	
Site Address:	Unit 1 Adj Topps Tiles, Southam Road, Banbury	

Proposal: Alternations to existing building comprising external alterations at ground floor level: including installation of new shop front and entrance feature (front elevation) and new fire escape door (rear elevation); internal alterations: including installation of mezzanine floor, 3 no. fire escape staircases, 1 no. feature customer staircase and new customer lift and consequential reconfiguration of car parking

1. Site Description and Proposal

- 1.1 The property is located on the east side of Southam Road within a mixed commercial area. Adjacent occupiers include retailers of DIY products and car showrooms. The site is located in an out of centre location in an area that has developed as a location for the retail of 'bulky' goods.
- 1.2 Planning permission is sought for alterations to the building as set out above.

2. Application Publicity

- 2.1 The application has been advertised by way of a press notice and site notice. The final date for comment was 31 March 2011.
- 2.2 No letters of representation have been received.

3. Consultations

- 3.1 **Banbury Town Council:** no objections
- 3.2 **Head of Planning and Affordable Housing Policy:** provides detailed consideration of the application concluding that whilst the proposal would make use of a long term, vacant unit, the information submitted does not demonstrate that the proposal would not adversely affect the viability and vitality of the town centre.
- 3.3 **County Highways Liaison Officer:** raises no objections stating that appropriate access, levels of parking provision and associated manoeuvring areas would be provided/remain. A contribution is required towards the Local Transport Strategy given the increased vehicular movements that would result from the increase in floorspace.
- 3.4 **Head of Safer Communities:** If it is proposed that the signage to the building be illuminated then prior approval of the lighting levels and method of illumination will be required.

- 3.5 **Thames Water:** raises no objections in relation to the water or sewerage infrastructure

4. Relevant Planning Policies

- 4.1 Planning Policy Statement 1: Delivering Sustainable Development
- 4.2 Planning Policy Statement 4: Planning for Sustainable Economic Growth
- 4.3 Planning Policy Guidance 13: Transport
- 4.4 South East Plan
Policy TC2: New Development and Re-development in Town Centres
- 4.5 Adopted Cherwell Local Plan (1996): No relevant saved policies
- 4.6 Non-Statutory Cherwell Local Plan
Policy S1: Sequential Approach
Policy S2: Maintenance of a Compact Central Shopping Area

5. Appraisal

- 5.1 Members will recall that this application was deferred at the Committee Meeting on 19 May this year as since the publication of that committee report the applicant provided further information, in relation to which SDPHE considered that further assessment was required. To assist with this assessment, SDPHE sought the views of CBRE (CB Richard Ellis) which accounts for the delay in re-reporting this application to committee. The views and conclusions from CBR are referred to throughout the report.

5.2 Main Planning Considerations

- 5.2.1 The main issues to consider in the determination of this application are as follows:
- Planning History
 - Principle of out of Town Retail
 - Sequential Test
 - Impact Assessment
 - Transport, Highways and Sustainability
 - Visual Amenity

Each of these matters are considered in turn below.

5.3 Planning History

- 5.3.1 00/01478/OUT: Demolition of existing building and erection of a leisure facility (Outline) (as amended by plans received on 02.02.01) – REFUSED on the following grounds:

The proposed development, by reason of its location, is considered to be contrary to Policy TC4 of the Oxfordshire Structure Plan 2011, Policy S1 of the Cherwell Local plan 2011 Deposit Draft and the guidance given in Planning Policy Guidance

Note 6 in that the considerations of the sequential test have not been fully satisfied and that the strategy within the emerging development plan requiring major retail and commercial leisure developments to be sited in suitable town centre locations as first preference would be harmed by the proposal. Furthermore, the proposal would not contribute to the enhancement of the vitality and viability of the town centre and could prejudice the viability of commercial leisure proposals in the town centre, where opportunities exist for such development consistent with the Development Plan and PPG6.

- 5.3.2 01/01358/OUT: Demolition of existing building and erection of non-food bulky goods retail unit including alterations to existing vehicular and pedestrian access to the highway (as amended by plans received 16.09.02) – APPROVED with the following condition

Condition 6: That the retail use hereby permitted shall be limited to building materials, DIY home and garden improvement products, hardware, self assembly and pre-assembled furniture, household furnishings, floor coverings, motor accessories, electrical goods and office supplies and for no other purpose whatsoever notwithstanding the provisions of Class A1 of the Town and Country Planning (Use Classes) Order 1987 (as amended), other than the ancillary sale of sweets or food consumption on the premises, providing the area given over to the sale of such items does not exceed 10% of the floor area of the unit.

Reason - In order to minimise the impact on the vitality and viability of the retail outlets in Banbury Town Centre.

- 5.3.3 02/02659/REM: Reserved matters application ref.: 01/01358/OUT for erection of non-food bulky goods retail unit (as amended by plans and letter received on 16.01.03) - APPROVED
- 5.3.4 07/01129/F: Section 73 application to vary condition 6 of permission 01/01358/OUT to allow food retail (as amended by revised plan received 27.07.07) – REFUSED on the following grounds and DISMISSED AT APPEAL

1 a) The Local Planning Authority considers that the proposal being in an out-of-centre location is contrary to Policy TC1 of the Oxfordshire Structure Plan 2016 and is also contrary to Policy TC2 of the Oxfordshire Structure Plan and the requirements of PPS6 – Planning for Town Centres as the proposal is in an out-of-centre location where the applicant has not demonstrated that a quantitative or qualitative need exists for the development nor that all sequentially preferable sites in the town centre or edge-of-centre have been thoroughly assessed as being unavailable, unsuitable or not viable before considering the proposed out-of-centre location.

b) In addition, the Local Planning Authority is concerned that the proposal, if approved, would be detrimental to the vitality and viability of the town centre insofar as it could have an adverse effect upon investment in the future provision of convenience floor space in the town centre and could impact upon existing food retailers in the town centre, which would potentially reduce the range of shops and services provided in the centre, to the disadvantage of less mobile social groups leading to increased social exclusion.

c) Furthermore, the Local Planning Authority considers that the proposal would promote increased use of the private car that runs contrary to the objectives of PPS1 and PPG13 and would increase the risk of social exclusion of less mobile groups because the site is in an out-of-centre location that is not accessible by a choice of means of transport, including public transport, and is principally accessible by private car, with limited opportunities to reduce car journeys or undertake linked trips.

d) Finally, the Local Planning Authority has concluded that there are no material considerations sufficient to outweigh the development plan and policy conflicts identified in this reason for refusal.

2. In the absence of a satisfactory unilateral undertaking or any other form of s106 legal agreement the Local Planning Authority is not satisfied that the transport infrastructure required to serve the proposed development will be provided, which would be contrary to Policies G3 and T8 of the Oxfordshire Structure Plan.

5.3.5 Summary of Inspector's reasons for Refusal

- Accessibility
 - Location not well served other than private car
 - Well beyond convenient walking distance from town centre
 - Close to little existing housing
 - Unattractive to pedestrians/cyclists
 - No evidence of buses stopping
 - Would not facilitate multi-purpose journeys
 - Linkages between the sale of bulky goods and food is limited
 - Existing arrangement discourages linked trips
 - No s106/Unilateral Undertaking
- Need and Impact
 - Would exacerbate deficiency of Town Centre convenience stores
 - Would exacerbate leakage of convenience expenditure
 - Would jeopardise trading performance of town centre stores
 - Evidence wholly unconvincing
 - Existing stores vulnerable
 - Convenience sector of town centre is lower than average
 - Under representation of convenience outlets in the town centre
 - Fails crucial PPS6 tests

5.3.6 07/02409/F: Section 73 application to vary condition 6 of permission 01/01358/OUT to allow food retail (resubmission of 07/01129/F) – REFUSED for the same reason as 07/01129/F

5.3.7 Summary of Planning History

Based on the above planning history for the site, it can be concluded that the Council considers the site to be appropriate for a non-food bulky goods retail unit, subject to a restriction over the range of goods sold.

5.3.8 Together with food shopping, the site has not been considered appropriate for leisure uses. The reasons for refusal of the applications referred to above include inconclusive sequential testing, the impact upon the vitality and viability of the town centre, the impact upon future town centre proposals, increased use of the private vehicle and the social exclusion of the less mobile.

5.3.9 Whilst the current proposal is not for leisure or food retail shopping, consideration must be given to these general themes when considering the proposal for the sale of a range of non-bulky goods. These matters are explored throughout the assessment of the application below.

5.4 Principle of Development

5.4.1 Amongst other alterations which are assessed under Other Matters at para 5.7 below, the proposal seeks to construct a mezzanine floor within the existing unit measuring 1,006sqm (72% increase over the current floorspace).

5.4.2 Due to its date of adoption, PPS4 needs to be given considerable weight alongside the Council's adopted development plan, and as such the proposal is considered against those policies which relate to town centre use development proposed in an out of town centre location which are not in accordance with an up to date development plan. PPS4 policies require thorough sequential and impact assessments to be carried out in relation to any such proposal submitted.

5.4.3 A sequential assessment must make a thorough assessment of all possible town centre sites, taking into account their availability, suitability and viability. Where it is demonstrated that no town centre sites are available, preference must be given to edge of town centre locations that have good pedestrian links to the town centre and potential occupiers must demonstrate flexibility with regard to scale, format, car parking and disaggregation.

5.4.4 An impact assessment must take into account impact upon a) private investment in a centre or centres within the same catchment, b) town centre vitality and viability, c) allocated sites being developed in accordance with the development plan, d) in centre trade/turnover and trade in the wider area, e) the extent to which the proposal is of an appropriate scale if located in or on the edge of a town centre and f) locally important impacts on the town centre.

5.4.5 The agent for the application has provided a retail assessment which provides critical analysis against the relevant policies within PPS4 in order to make an assessment as to whether the application could be considered to be acceptable or not in principle.

5.5 **Sequential Assessment**

5.5.1 Assessment of town centre sites (taking into consideration availability, suitability and viability)

5.5.2 At the time of publishing the previous committee report for the meeting on 19 May, only ten sites had been considered and therefore the Council was not satisfied that all sequentially preferable sites in Banbury had been assessed.

5.5.3 Since the submission of the application, the agent has provided a further sequential test which gives consideration to eight further sites in addition to those that were originally assessed.

- 5.5.4 The applicant identifies three requirements for the proposed store which include sufficient floorspace, adjacent surface level car parking and appropriate external servicing and delivery areas. The assessment concludes that no sites have been identified that are suitable and available which would viably accommodate such development.
- 5.5.5 SDPHE is satisfied that this is the correct conclusion, a view which is supported by CBRE. In reaching this conclusion, Dunelm has demonstrated an appropriate level of flexibility as set out below.
- 5.5.6 Demonstration of flexibility (scale, format, car parking and disaggregation)
- 5.5.7 In terms of scale, and in consultation with CBRE, SDPHE recognises the fact that even with the proposed mezzanine floor (which is being considered under the parallel application) the proposed store would be operating over a floorspace that is around 33% smaller than a standard sized Dunelm store and therefore flexibility has been demonstrated.
- 5.5.8 With regard to format it is appreciated that Dunelm is willing to operate over two floors and that in addition to this, the ancillary café that would normally be provided in association within a Dunelm store has been omitted from the scheme, which demonstrates flexibility.
- 5.5.9 Referring to car parking, as set out in CBRE's report, there is some doubt that Dunelm sells a significant range of bulky goods as in reality, many of the goods are small scale items. As such it is difficult to agree that a substantial amount of adjacent parking is required particularly as CBRE points out, Dunelm offers a home delivery service. In this respect therefore insufficient flexibility has been demonstrated.
- 5.5.10 Lastly, in terms of disaggregation and based on all information submitted by the agent, CBRE also indicates that it would be unreasonable to expect Dunelm to disaggregate different elements of their store (to a town centre location for example) and as such SDPHE does not consider that flexibility needs to be demonstrated in this respect.
- 5.5.11 Taking each of the factors of flexibility into consideration and recognising the requirements of the store, SDPHE, in consultation with CBRE is satisfied that an appropriate level of flexibility has been demonstrated
- 5.5.12 Conclusions on Sequential Testing
For the reasons given above, SDPHE considers that a thorough assessment has been made of all sequentially preferable sites within Banbury and it has been concluded that there are none immediately available which would suit Dunelm's requirements. Furthermore, Dunelm has demonstrated flexibility in terms of scale, format, parking and disaggregation. The key issue for further assessment therefore is impact.
- 5.6 **Impact Assessment**
- 5.6.1 Impact of the proposal on existing, committed and planned public and private investment in a centre or centers in the catchment area of the proposal

- 5.6.2 The retail assessment states that there are no proposed town centre development schemes. This is not accepted. The Council is active in considering the future of a number of edge of town centre sites, at least some of which may accommodate some element of retail, namely Bolton Road, the former Spiceball site and Canalside. No reference has been made by the applicant in terms of the impact of the proposal upon these future sites, however they recognise that the Bolton Road site that it is unlikely to come forward for development in the near future and therefore any commitment on this site would not be impacted upon by this proposal. On a smaller scale, there are a number of recent permissions for retail development including sites at Calthorpe House, the warehouse adj 12 Marlborough Road, Pepper Alley and 5 Butchers Row. No consideration has been given to the impact of the proposal upon these commitments which CBRE considers to be necessary in order to assess impact. Further evidence is required to demonstrate that the proposals in isolation or together will have no impact on these committed uses.
- 5.6.3 Given the above assessment it is SDPHE's view that in the absence of any evidence to the contrary, the approval of an out of centre retail unit could not be considered to have no impact upon the committed retail uses. If further out of centre retailing is permitted this will diminish the opportunities to undertake more appropriate edge of centre development by diverting that demand to inappropriate locations. With no verification in relation to this matter SDPHE is not satisfied that public and private investment would not be impacted upon by the proposal..
- 5.6.4 Impact of the proposal on town centre vitality and viability, including local consumer choice and the range and quality of the comparison convenience retail offer
- 5.6.5 The applicant's reference to the Bolton Road site (Draft Core Strategy allocation) is noted, however PPS4 requires assessment in relation to town centre vitality and viability giving consideration to consumer choice and the range and quality of the comparison and convenience retail offer. It is reasonable therefore to give consideration to the existing town centre circumstances rather than those that have not yet been allocated. Banbury town centre accommodates a range of retail units which offer good provision of comparison goods retailers targeted mainly at the middle/market class (CBRE 2010 Retail Update). Giving consideration to Dunelm's range of products, it is considered that there is the potential for a level of overlap that could negatively affect the vitality and viability of the town centre. Retailers such as Cargo Homestore, Debenhams, British Home Stores, Fashion Fabrics, Laura Ashley and Robert Dyas (together with other smaller one off retailers), all sell the products that Dunelm wish to sell from the proposed site in addition to those that can already be lawfully sold (fabric, household goods, homewares, soft and hard household furnishings and decorative products).
- 5.6.6 The submitted Retail Assessment accepts that as a result of Dunelm occupying the unit in question there may be some overlap with goods sold in the town centre, however it goes on to state that the degree of overlap would be minimal. The assessment provides no evidence to support this statement and CBRE considers that this is insufficient to conclude that the proposal will have no adverse impact on the comparison stores mentioned above.

- 5.6.7 Given the observations and conclusions drawn, SDPHE considers that the proposal does not demonstrate that there would not be an unacceptable impact upon the vitality and viability of the town centre.
- 5.6.8 The impact of the proposal on allocated sites outside town centres being developed in accordance with the development plan
- 5.6.9 The statement in the Retail Assessment on this issue is noted. The draft allocation of the Bolton Road site is not yet adopted and there are no other allocated retail sites within Banbury Town Centre.
- 5.6.10 In the context of a retail or leisure proposal, the impact of the proposal on in-centre trade/turnover and on trade in the wider area, taking account of current and future consumer expenditure and capacity in the catchment area up to five years from the time the application is made, and where applicable on the rural economy
- 5.6.11 The submitted Retail Assessment claims that, based on the CBRE 2010 Retail Update, there is capacity (or quantitative need) for additional retail floorspace, however in reviewing the applicant's assessment of impact, it is CBRE's view that this assessment is very brief stating that it is not sufficient simply to conclude that there will be 'very little prospect of a harmful impact in the town centre' without supplying any quantitative analysis of the likely trade draw to evidence this.
- 5.6.12 There are a number of stores in the town centre which may be impacted upon by this proposal due to the fact that a wide range of goods would be sold from the unit. And whilst CBRE suggests that this may mean that the impact is dispersed across the town centre, clear evidence is required to demonstrate this.
- 5.6.13 Based on the advice received from CBRE, SDPHE considers that an analysis of the likely trade draw as a result of the proposal is necessary. As this has not been carried out to date, SDPHE is not convinced that the proposal to increase the footprint of the building by 1,006sqm would not have a harmful impact upon in centre trade and turnover.
- 5.6.14 If located in or on the edge of a town centre, whether the proposal is of an appropriate scale (in terms of gross floorspace) in relation to the size of the centre and its role in the hierarchy of centres
- 5.6.15 It is considered that as the site is beyond the edge of the town centre this element of EC16 does not apply to the consideration of the proposal.
- 5.6.16 Any locally important impacts on centres
- 5.6.17 It is not considered that the proposal would give rise to any locally important impacts on the existing town centre over and above those set out at 5.6.4-5.6.7 and 5.6.10-5.6.15
- 5.7 **OTHER MATTERS**
- 5.7.1 Highway Safety
- 5.7.2 As set out above, the Local Highway Authority raises no objections to the creation

of additional floorspace within the building commenting that an appropriate access, level of parking provision and associated manoeuvring areas would be provided/remain and stating that the submitted staff travel plan is appropriate and provides reasonable and practical objectives and measures in the interests of reducing single occupancy car trips (recommended to be secured via condition).

- 5.7.3 In addition to the above comments, SDPHE is advised that the increase in floor space would attract a greater number of trips to and from the site and it can be expected that most of these trips would be made by car and furthermore the proposal is likely to increase the number of deliveries and associated vehicles. The Local Highway Authority considers that the small increase in traffic, which is foreseen, would be unlikely to have any measurable impact upon any specific part of the local network; however, a local transport strategy is in place to tackle congestion and promote sustainable transport services and infrastructure.
- 5.7.4 The Local Highway Authority seeks financial contributions towards the strategy in proportion to peak hour trip generation. Currently, a contribution of £2,100 is requested per additional average peak hour trip, therefore a contribution of £9,450 at price base Baxter Jan 2011 is required. The financial obligations can be met via a Unilateral Undertaking.
- 5.7.5 Based on the above assessment of the proposal in highway safety terms and subject to the receipt of the required financial contributions towards the local transport strategy and a condition relating to the travel plan, SDPHE considers that the proposal complies with PPG13. It should be noted however that in relation to the Travel plan, it would be unreasonable to tie this via condition to Dunhelm. Instead a more standard approach to securing a Travel plan via condition should be taken.
- 5.7.6 Design and Visual Amenity
- 5.7.7 The alterations to the external appearance of the building would be relatively minor, involving a new shop front opening, centrally positioned on the north west facing elevation (rather than being positioned to the far west of this elevation), and a new fire escape opening on the south east elevation. The arrangement of the existing parking provision would be reconfigured to allow for the repositioning of the shop entrance. The proposed alterations would be visually appropriate given the context of the area and the reconfiguration of the shop frontage would create a visual focal point for the entrance to the building. SDPHE therefore considers that the proposal would be appropriate in design and visual amenity terms in accordance with PPS1: Delivering Sustainable Development and Policy BE1 of the South East Plan.
- 5.8 Conclusion
- 5.8.1 It is concluded that Dunelm has demonstrated that there are no current sequentially preferable sites to accommodate the retail floorspace that is sought, however SDPHE is not convinced that the floorspace extension would not cause harm to the vitality and viability of the Town Centre by way of impacting upon existing convenience retailers and resulting in trade draw from the town centre. For these reasons, the application does not comply with PPS4 and therefore the application is recommended for refusal.

6. Recommendation

Refusal for the following reason:

The Council considers that the application for alterations to the existing building which includes the insertion of a mezzanine floor measuring 1,006sqm is unacceptable as no sound evidence has been provided which demonstrates that the proposal would not have an unacceptable impact upon the committed and planned investment in the town centre or that it would not result in unacceptable trade draw from the town centre. For these reasons, it is considered that the proposal would be detrimental to the future vitality and viability of the town centre and therefore the application is considered to be contrary to PPS4: Planning for Sustainable Economic Growth, Policy TC2 of the South East Plan and Policies S1 and S2 of the non-statutory Cherwell Local Plan.

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