

2015/0332

Reg Date 13/04/2015

Bagshot

**LOCATION:** NOTCUTTS GARDEN CENTRE, 150-152 LONDON ROAD, BAGSHOT, GU19 5DG

**PROPOSAL:** Variation of Condition 3 and 10 of planning permission SU/13/0435 (relating to the erection of a part single storey, part two storey building to provide 2 retail units (Class A1) with ancillary cafe and storage facilities as well as parking, landscaping, and access following the demolition of existing garden centre) to allow the provision of 4 retail units (including cafe).

**TYPE:** Reserved Matters

**APPLICANT:** Mr Mark Kinhead  
Notcutts Woodridge Limited and Chelstone Management (Bagshot) Limited

**OFFICER:** Duncan Carty

## **RECOMMENDATION: REFUSE**

### **1.0 SUMMARY**

- 1.1 The application site relates to the site of the former Notcutts Garden Centre, which is currently under redevelopment to provide a 6437 square metre (g.f.a) retail development of two retail units together with 349 associated parking spaces. Unit 1 provides 3641 square metres (1898 square metres net retail sales area and 141 square metres café area) and has been occupied by Waitrose.
- 1.2 Unit 2 provides 2976 square metres (2104 square metres net retail sales area and 350 square metres café area) and was to be occupied by Notcutts. However, Notcutts are no longer proposing to occupy this unit and so the current proposal seeks to allow the occupation of this unit by four separate retailers (including a café operator).
- 1.3 The principal issue is to whether there would be any significant adverse impact on existing, committed and planned investment in Camberley Town Centre and other designated centres (including Bagshot and Lightwater); and the vitality and viability of Camberley Town Centre and other designated centres.
- 1.4 It is considered that the proposal would not have an unacceptable impact on residential amenity or highway safety. However, it is considered that without a retail assessment, it is not possible to assess whether the proposal would result in an unacceptable impact on Camberley Town Centre or other centres and it is therefore recommended for refusal.

### **2.0 SITE DESCRIPTION**

- 2.1 The application site, lies at the edge of Bagshot predominantly within the defined Countryside (beyond the Green Belt). The application site extends to 1.74 hectares. It fronts onto London Road, with the vehicular access point onto Waterers Way (serving the Earlswood Park residential development) which meets A30 London Road at a traffic light junction. The application site is approximately 0.7 kilometre south west of Bagshot centre and 3.5 kilometres north east of Camberley Town Centre. The application site is adjoined

by Earlswood Park residential development to the north east, SANGS (provided for the residential development) to the south and A30 London Road to the north west with predominantly residential properties opposite.

- 2.2 This application site relates to a former garden centre site currently undergoing a retail redevelopment, which is now partly occupied, to provide a 6617 square metre (g.f.a) retail development of two retail units together with 349 associated parking spaces. Unit 1 would provide 3641 square metres (1898 square metres net retail sales area and 141 square metres café area) and is now occupied by Waitrose.

### 3.0 RELEVANT HISTORY

The application site, as indicated above, has an extensive planning history of which the following is most relevant:

- 3.1 SU/13/0435 Erection of a part two storey, part single storey building to provide two retail units (Class A1) with ancillary café and storage facilities as well as parking, landscaping and access following the demolition of the existing garden centre. Approved in February 2014 and currently under construction.

Condition 3 of this permission states:

*“Unit 2 (the garden store) with a total net retail sales area floorspace of 2,454 sq metres shall only be used under Class A1 of the Town and Country Planning (Use Classes) Order 1995 as amended (or any order revoking or re-enacting that Order) for the sale of goods, as listed below, unless otherwise agreed in writing with the Local Planning Authority:*

*i) A minimum of 1,270 sqm (60% of the total net retail sales area floorspace) shall be used for the sale of goods and services related to: gardens, gardening and wildlife, horticultural products, trees, plants, shrubs, house plants, flowers of all types and cut, silk and dried flowers, garden equipment, machinery, tools, garden furniture, barbeques and outdoor living and their accessories, sheds, garden buildings and outdoor play equipment, fencing, trellis and landscaping materials, including aggregates, paints and stains, outdoor and indoor aquatics and water garden equipment and their accessories, pet care, pet advice, pet accessories and products; and, ancillary café/restaurant with a maximum floorspace of 350 sq.m.,*

*ii) In addition to the floorspace in (i) above, up to a maximum of 984 sqm (40% of the total net retail sales area floorspace) may be used in any combination for the sale of the following ancillary goods:*

*a. No more than 25% of floorspace (245 sqm) to be used for the purposes of the sale of furniture and household goods;*

*b. No more than 25% of floorspace (245 sqm) to be used for the purposes of the sale of DIY and home improvement goods;*

*c. No more than 25% of floorspace (245 sqm) to be used for the purposes of the sale of china, glass, kitchen appliances and cookware;*

*d. No more than 10% of floorspace (98 sqm) to be used for the purposes of the sale of bath and body (health and beauty) goods;*

e. No more than 25% of floorspace (245 sqm) to be used for the purposes of the sale of outdoor adventure equipment, country sports equipment, sportswear and bicycles;

f. No more than 25% of floorspace (245 sqm) to be used for the purposes of the sale of giftwear, hobbies, crafts, and toys;

g. No more than 10% of floorspace (98 sqm) to be used for the sale of groceries, beverages, and related ancillary items;

h. No more than 25% of floorspace (245 sqm) to be used for the sale of clothes and footwear and related ancillary items;

i. No more than 10% of floorspace (98 sqm) to be used for the sale of books, cards, stationary, DVD and media items; and

j. No more than 5% of floorspace (49 sqm) to be used for the sale of pharmaceutical goods.

*Reason: To retain control in order to prevent unrestricted retail use having regard to the impacts on existing, committed and planned investment in the catchment area; and, in the interests of the vitality and viability of Camberley Town Centre, Bagshot and other designated centres, to comply with Policies CP9 and CP10 of the Surrey Heath Core Strategy and Development Management Policies 2012 and Paragraphs 24 and 26 of the NPPF."*

Condition 10 of this permission states:

*"Apart from the café concession floor space and for the sale of pet food and aquatic related items, the retail premises as approved shall not be subdivided and used by separate retail operators or amalgamated into one retail unit without the prior written approval of the Local Planning Authority.*

*Reason: To retain control in order to prevent unrestricted retail use having regard to the impacts on existing, committed and planned investment in the catchment area; and, in the interests of the vitality and viability of Camberley Town Centre, Bagshot and other designated centres, to comply with Policies CP9 and CP10 of the Surrey Heath Core Strategy and Development Management Policies 2012 and Paragraphs 24 and 26 of the NPPF."*

A copy of the officer report for this permission is appended to this report.

## **4.0 THE PROPOSAL**

- 4.1 The proposal is to vary Conditions 3 and 10 of full planning permission SU/13/0435 to allow the occupation of Unit 2 for four operators – including a coffee shop, a pet shop and an outdoor adventure (predominantly clothing) shop. The fourth occupier has not been defined by the applicant. The proposal would allow the vertical sub-division of this unit into four units.
- 4.2 The applicant has indicated that they consider that Condition 10 of planning permission SU/13/0435 above would allow the subdivision of Unit 2 into three units – a coffee shop, pet shop and a third retail occupier. Their view has been supported by a legal opinion submitted with the application, which is discussed further at Paragraph 7.4 below.

## 5.0 CONSULTATION RESPONSES

- 5.1 Surrey County Council Highway Authority No objections.
- 5.2 CGMS (the Council's Retail Advisor) Raises an objection (see Paragraph 7.3 below)
- 5.2 Windlesham Parish Council An objection is raised due to the impact on sustainability and economic growth of Bagshot village.

## 6.0 REPRESENTATION

- 6.1 At the time of preparation of this report 5 letters of support, including the Bagshot Society, and 5 representations of objection have been received.
- 6.2 The letters of support state the following:
- It would be ridiculous to deny permission for this application when compared to the retail sales possible at the Longacres garden centre.
  - Concerns if extra traffic leads to parking on residential estate roads
  - No greater demands on the site
  - Full occupation of the site is needed as soon as possible
  - So long as the proposal will not duplicate existing businesses in Bagshot
- 6.3 The letters of objection from local residents raise the following concerns:
- Negative impact on traffic [*see Paragraph 7.8*]
  - Less sustainable businesses with less secure jobs than Waitrose [*Officer comment: This is not a reason to refuse this application*]
  - Concern about poor wording of condition which allows 3 independent retail occupiers within Unit 2 and makes it more difficult to resist the provision of a fourth unit [*see Paragraph 7.6*]
  - Impact on investment in Camberley town centre [*see Paragraph 7.6*]

## 7.0 PLANNING CONSIDERATIONS

- 7.1 The application proposal relates to an out-of-centre retail development, which is partly completed and was built under planning permission SU/13/0435. Policies CP1, CP9, CP10, CP11, DM9 and DM11 of the Surrey Heath Core Strategy (CSDMP) and Development Management Policies 2012 and the National Planning Policy Framework (NPPF) are relevant in the determination of this application. The advice in the Planning Practice Guidance (PPG) (which replaced guidance within the Planning for Town Centres: Practice Guidance on Need, Impact and the Sequential Approach which was extant

guidance to PPS4 at the time of the determination of the original permission SU/13/0435) is also relevant to the determination of this application. Since the determination of SU/13/0435, the Camberley Town Centre AAP has been adopted (in 2014) and is also relevant to the determination of this application.

- 7.2 The NPPF has a presumption in favour of sustainable development (of which there are three dimensions: economic, social and environmental). To deliver sustainable development the Government places significant weight on the need to support economic growth by building a strong and competitive economy. The NPPF also seeks to deliver sustainable development by ensuring the vitality of town centres, promoting sustainable transport and, amongst other things, requiring good design. In assessing the merits of the application it is important to consider the impacts of the proposal against these principles of sustainable development and the existing context.
- 7.3 The existing context is the retail redevelopment granted permission under SU/13/0435 and the garden centre which previously stood on the site, which had been a retail destination, supporting the local economy for over 50 years, with an established customer base generating trade, trips and jobs. The redevelopment proposal under SU/13/0435 was envisaged as a replacement “garden store” for the garden centre (with an overall reduction in the retail sales area) and the provision of a new food store.
- 7.4 As indicated in Paragraph 4.3 above, the applicant has confirmed that they consider that Condition 10 of planning permission SU/13/0435 would allow Unit 2 to be separated into three units (including a cafe) without the need for separate formal planning permission. With regards to this approach, the Council’s Retail Adviser indicates that whilst Condition 10 would allow some sub-division, this solely relates to the allowance of floorspace for a cafe concession and for the separate sale of pet food and aquatic related items. This reflected the application that was assessed by the Council and the expectation that Unit 2 would be occupied by Notcutts. The Council’s Retail Adviser indicates:

*“We consider the ability to sub-divide Unit 2 into three areas [as confirmed in the legal opinion] is an important distinction from sub-dividing Unit 2 into four units...It is telling that in his summing up of the [applicant’s] strategy the Counsel states: “The...[current]...application will propose a change to the sub-division which can take place, from three areas to four areas or units” in that there is no assertion that the current consent allows the subdivision into three units.”*

As such, the Retail Adviser confirms the Council’s view that the approved development was for two retail units (a garden store and a retail store), with areas within Unit 2 (the garden store) which could provide a café concession and space for a separate pet food and aquatics retail operator. It is on this basis that the assessment, in Paragraph 7.6 of the report below, has been made.

- 7.5 The current proposal relates to a subdivision of the garden store in retail units and with this context in mind, it is therefore considered that the main issues in determining this application are:
- The retail impact which includes whether the proposal complies with the sequential approach; the impact on existing, committed and planned investment; and, the impact on the vitality and viability of Bagshot centre, Camberley Town Centre and other designated centres nearby;
  - The impact on residential amenity; and
  - The impact on parking and highway safety.

## 7.6 The Retail Impact

7.6.1 The NPPF in ensuring the vitality of town centres provides advice on how to deal with planning applications involving proposed retail development outside of town centres. Paragraph 24 of the NPPF states that:

*“Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale”*

7.6.2 Paragraph 26 of the NPPF continues to state that:

*“When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set threshold (if there is no locally set threshold, the default threshold is 2,500 sqm). This should include assessment of:*

- *the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*
- *the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.”*

7.6.3 Paragraph 27 advises that:

*“Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused”.*

7.6.4 Paragraph: 015 Reference ID: 2b-015-20140306 of the PPG goes on to state:

*“It is for the applicants to demonstrate compliance with the impact test in support of relevant applications. Failure to undertake an impact test could in itself constitute a reason for refusal. Ideally, applicants and local planning authorities should seek to agree the scope, key impacts for assessment, and the level of detail required in advance of applications being submitted.*

7.6.5 Prior to the submission of the application, a retail assessment had been requested by the Council. However, in pre-application discussions, the applicant didn't consider this to be necessary, relying instead on legal opinion. The legal opinion indicates that:

*“Paragraph 24 of the NPPF indicates that local planning authorities should apply a sequential test to planning applications for main town centre uses which are not in an existing centre and not in accordance with an up to date local plan. The PPG advises that*

*the application of the test should be proportionate and appropriate for the given proposal. It is arguable that a sequential test should be applied when considering...[the current]...application. However in my view it would not be proportionate or appropriate to apply such a test in this case, as the focus of determination is to be on the relative merits of the 2014 permission [SU/13/0435] and the conditions proposed in the...[current]...application. The [current] application will not propose additional floorspace, or change the range of goods and services which can be sold. The...[current]...application will propose a change to the sub-division which can take place, from three areas to four."*

The applicant therefore maintains that a retail assessment is not required for the current proposal.

7.6.6 The applicant has indicated that they consider that the proposed changes to the planning permission would not result in a materially different scheme or have an adverse impact on town centres because:

- The anticipated turnover of the unit will be circa £5.5-6.5m. a year, about £1.8-2.2m. a year less than tested in the retail impact assessment submitted in support of the SU/13/0435 proposal;
- No increase in floorspace or changes to the proposed types of products permitted to be sold are proposed;
- The original sequential assessment remains valid which confirms that the range of goods consented is not suitable for a town or district centre; and
- There is no material difference between four separate units as opposed to the three consented units.

7.6.7 The Council's Retail Adviser does not agree with the applicant's approach to the need for a retail impact assessment, indicating that the retail profile of the proposed development is materially different to the approved development at the site, with the retail assessment for the approved scheme undertaken on the basis that Unit 2 would form a replacement garden store (for Notcutts). The Retail Adviser indicates that *"this would have informed the sequential sites assessment undertaken in support of the proposals and the impact assessment. Indeed, this is encapsulated in Paragraph 6.61 of the RA which states:*

*"...the proposed store will compete almost exclusively with existing Garden Centres and Retail Parks in out of centre locations which sell similar products."*

The proposed units would be considerably smaller than the approved garden store unit and therefore these units could be more readily accommodated in sequentially preferable (i.e. more central) locations.

7.6.8 Retail impact has two dimensions: these are quantitative and qualitative indicators of impact on the vitality and viability of existing centres and impact on investment within those centres. Whilst the applicant indicates that there would be a reduction in anticipated overall turnover for Unit 2 (under the current proposal), this has not been vigorously tested. An assessment of the impact of the changes to the retail provision at the site also needs to be undertaken. The Council's Retail Adviser indicates that:

*"In the absence of an updated Retail Assessment in support of the proposals under the current application, it is difficult for the LPA to conclude, as required by policy, that*

- *There are no sequentially preferable sites for the development now proposed*
- *The revised profile of 2,976 sqm [gross floor area] of retail floorspace in an out-of-*

*centre location will not result in significant adverse impact either on the vitality and viability of existing centres, or investment in those centres.”*

The new application is clearly materially different from that which was tested under planning permission SU/13/0435. A retail impact assessment would therefore be needed to assess the impact of the new retail offer (as proposed under the new application) and apply a new sequential test on the basis of the smaller units now proposed. However, the lack of such an assessment is considered to be unacceptable.

- 7.6.9 In the absence of a retail assessment or sufficient other evidence, the Retail Adviser considers that the application should be refused in accordance with Paragraph 27 of the NPPF. As such, the proposal is considered to be unacceptable on these grounds failing to comply with Policies CP1, CP9 and CP10 of the Surrey Heath Core Strategy and Development Management Policies 2012 and the NPPF.

## **7.7 The impact on residential amenity**

- 7.7.1 The current proposal would result in the subdivision of Unit 2 into four retail units (including a café) and could possibly result in an intensification of the use of the site, with a larger number of retail units at the site. However, the proposal would not increase the amount of floorspace to serve the development. It is considered that this increased level of activity would not be so significant, bearing in mind the site location adjacent to the A30 London Road and size of the previously approved development, to warrant a refusal of permission on residential amenity grounds.

- 7.7.2 It is considered that the proposal is acceptable in residential amenity terms complying, in this respect, with Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012

## **7.8 The impact on parking and highway safety/capacity**

- 7.8.1 The approved development would provide 349 parking spaces which would be shared between the proposed retail units. The current proposal could lead to an intensification of use of the site but this would be limited because there would be no proposed increase in floorspace. The County Highway Authority has raised no objections to the proposal.
- 7.8.2 In conclusion, it is envisaged that the proposal would not have an adverse impact on parking, highway safety and capacity grounds, complying with Policies CP11 and DM11 of the Surrey Heath Core Strategy and Development Management Policies 2012 and advice in the NPPF.

## **8.0 ARTICLE 2(3) DEVELOPMENT MANAGEMENT PROCEDURE (AMENDMENT No.2) ORDER 2012 WORKING IN A POSITIVE/PROACTIVE MANNER**

In assessing this application, officers have worked with the applicant in a positive and proactive manner consistent with the requirements of Paragraphs 186-187 of the NPPF. This has included the following:-

- a) Provided or made available pre application advice to seek to resolve problems before the application was submitted and to foster the delivery of sustainable development.
- b) Provided feedback through the validation process including information on the website, to correct identified problems to ensure that the application was correct and could be registered.



c) Have proactively communicated with the applicant through the process to advise progress, timescale or recommendation.

## **9.0 CONCLUSION**

- 10.1 The current proposal would not have any adverse impact on residential amenity or highway safety. However, without a supporting retail assessment, the applicant has not demonstrated that the proposal would not have an adverse impact on the vitality or viability of Camberley Town Centre and other centres or planned investment of these centres. The proposal is therefore recommended for refusal.

## **11.0 RECOMMENDATION**

REFUSE for the following reason(s):-

1. The proposed provision of four independent retail units for Unit 2 is materially different to the planning permission SU/13/0435 which permitted a garden store for Unit 2 to be sub-divided into three specific areas (garden store, pet shop and cafe). In the absence of quantitative and qualitative evidence, by the submission of a revised Retail Impact Assessment, the applicant has failed to demonstrate that there are no sequentially preferable sites and that the proposal would not result in an adverse impact on the vitality and viability of Camberley Town Centre and other centres, or planned investment in these centres, failing to comply with Policies CP1, CP9 and CP10 of the Surrey Heath Core Strategy and Development Management Policies 2012 and the National Planning Policy Framework.