

## BOROUGH OF KETTERING

<b>Committee</b>	<b>Full Planning Committee - 07/05/2013</b>	<b>Item No: 5.2</b>
<b>Report Originator</b>	<b>Susan Garbutt Senior Development Officer</b>	<b>Application No: KET/2012/0737</b>
<b>Wards Affected</b>	<b>Northfield</b>	
<b>Location</b>	<b>Belgrave Retail Park, Northfield Avenue, Kettering</b>	
<b>Proposal</b>	<b>s.73 Application: Variation of Condition 3 of KET/2009/0406 in relation to use of unit 2</b>	
<b>Applicant</b>	<b>Belgrave Land, (Kettering Autos) Ltd</b>	

### **1. PURPOSE OF REPORT**

- To describe the above proposals
- To identify and report on the issues arising from it
- To state a recommendation on the application

### **2. RECOMMENDATION**

THE DEVELOPMENT CONTROL MANAGER RECOMMENDS that this application be APPROVED, subject to a S.106 OBLIGATION being entered into, and to the following conditions:-

1. The use of unit 2 hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.

REASON: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended) and to prevent an accumulation of unimplemented planning permissions.

2. Notwithstanding the provisions of class A1 to the schedule of the Town and Country Planning (Use Classes) Order 1987 (or any subsequent re-enactment), the 1764sqm total gross internal floorspace in Unit 2 hereby permitted shall not be used other than for the sale of non-food comparison goods. This unit shall not be subdivided and there shall be no internal mezzanine floorspace other than hereby permitted. None of the following shall be sold from unit 2; food and drink for consumption off the premises, tobacco, flowers, clothing and footwear and holidays and other travel related items, other than from an area not exceeding 20% of the net retail sales floorspace.

REASON: To ensure no adverse impact on the vitality and viability of Kettering town centre in accordance with policy 12 of the North Northamptonshire Core Spatial Strategy and policy 2 of the National Planning Policy Framework.

3. Units 1 and 3 hereby permitted shall not be used other than for the sale of bulky non-food retail items as follows:

DIY/garden goods and furniture, carpets and floorcoverings, bulky electrical goods and related goods and for no other purpose in Class A1 of the Schedule

to the Town and Country Planning (Use Classes) Order 1987 (as amended) or any Statutory Instrument revoking and re-enacting that Order with or without modification.

REASON: To ensure no adverse impact on the vitality and viability of Kettering town centre in accordance with policy 12 of the North Northamptonshire Core Spatial Strategy and policy 2 of the National Planning Policy Framework.

4. The premises hereby approved shall not be used for the purposes hereby permitted other than during the hours of 07:00 - 21:00 Mondays to Saturdays, 10:00 - 16:00 on Sundays and 09:00 - 18:00 on publicly recognised Bank Holidays but excluding Christmas Day and Easter Sunday when the premises shall not be open.

REASON: In recognition of the impact of trading on the area and on local amenity in accordance with policy 13 (L) of the North Northamptonshire Core Spatial Strategy.

5. The hard and soft landscaping of the site shall be in accordance with the approved plan 0908/6 'Landscape Proposals' received 29/5/09 by the Local Planning Authority. Any trees or plants which, within a period of 10 years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

REASON: To improve the appearance of the site in the interests of the visual amenity of the locality in accordance with policy 13 (I and O) of the North Northamptonshire Core Spatial Strategy.

6. The maintenance and management of the landscaped areas shall not be carried out other than in accordance with the following approved details for a period of 10 years from 15/6/09; attachment to letter dated 5/5/09 from PJ Landscapes received 29/5/09 by the Local Planning Authority.

REASON: To ensure the provision of amenity afforded by the proper maintenance of existing and/or new landscape features in accordance with policy 13 (I and O) of the North Northamptonshire Core Spatial Strategy.

7. There shall be no external illumination on the site at any time other than in accordance with a detailed scheme which shall first have been submitted to and approved in writing by the Local Planning Authority. All internal lighting (except for security lights) and external lights shall only be illuminated during hours in which the buildings are open to the public.

REASON: In the interests of visual amenity and highway safety in accordance with policy 13 (L and N) of the North Northamptonshire Core Spatial Strategy.

8. The total gross internal floorspace area hereby permitted shall not exceed the following; 344sqm plus 121sqm mezzanine in unit 1, 929sqm plus 835sqm mezzanine in unit 2 and 929sqm plus 92sqm mezzanine in unit 3. There shall be no internal mezzanines other than those hereby permitted.

REASON: To define the permission and ensure no adverse impact on the vitality and viability of Kettering town centre in accordance with policy 12 of the North Northamptonshire Core Spatial Strategy and policy 2 of the National Planning Policy Framework.

9. The site access and cycling and pedestrian facilities shall be retained as approved as shown on Units Plan 090107025 Rev M received by the Local Planning Authority 26/11/08.

REASON: In the interest of highway safety in accordance with policy 13 (D, K and N) of the North Northamptonshire Core Spatial Strategy.

10. The development shall not be carried out other than in accordance with the following approved plans:

Site Location Plan 090107025 04 Rev E (rec 7/7/09) approved 27/10/09

Units Plan 090107025 01 Rev P (rec 7/7/09) approved 27/10/09

Proposed Elevations 090107025 02 Rev F (rec 10/12/07)

Car wash plan and elevations 1003/P2 (rec 2/2/07)

REASON: To define the planning permission and to secure a satisfactory form of development in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

### **Justification for Granting Planning Permission**

The proposal is in accordance with Policies 4, 6, 8, 12 and 13 of the North Northamptonshire Core Spatial Strategy. The proposal conflicts with local policies as set out in Policies 1 and 9 of the North Northamptonshire Core Spatial Strategy, Policy 58 of the Local Plan for Kettering Borough and Policies 3, 15 and 16 of the Kettering Town Centre Area Action Plan. However, policies 1, 2 and 4 of the National Planning Policy Framework are material considerations and are sufficient to indicate in favour of the proposal and to outweigh the policy conflict referred to above.

## Officers Report

### 3.0 Information

#### Relevant Planning History

KET/2011/0157 Erection of a steel framed building for restaurant/hot food take away REFUSED 22/08/2011 APPEAL ALLOWED 8/2/12

KET/2009/0455 Installation of metal door to the rear of unit 3 APPROVED 24/09/2009

KET/2009/0406 Variation of condition 10 of KET/2009/0275, to allow additional internal mezzanine floorspace and for the gross internal; floor space not to exceed 3530 square metres APPROVED 27/10/09 (S106 Deed of Variation KBC\_250 dated 28 Oct 09)

- This permission granted Unit 1 344sqm with 121sqm mezzanine, and increased unit 2 929sqm with 835sqm mezzanine, and unit 3 929sqm with 371 mezzanine (total 3530sqm)

KET/2009/0275 Variation of condition 10 of KET/2007/0132 to allow additional internal mezzanine and for the internal floor space not to exceed 3103 square metres APPROVED 28/7/09 (S106 Deed of variation KBC\_209 dated 24/7/09)

- This permission granted Unit 1 344sqm with 121sqm mezzanine, unit 2 929sqm with 408sqm mezzanine, and increased unit 3 929sqm with 371 mezzanine (total 3102sqm)

KET/2009/0267 Erect external plant and compound to rear of Unit 3 APPROVED 25/6/09

KET/2009/0027 Variation of Condition 10 to varied to permit an additional mezzanine floor space and for the total gross internal floor space thereby permitted not to exceed 3530 square metres, NOT DETERMINED, DEEMED REFUSAL 22/9/09 APPEAL WITHDRAWN

KET/2007/0132 Erection of 3no. bulky goods non-food retail units and additional mezzanine APPROVED 28/8/08 (S106 KBC\_223 Dated 28/8/08)

- This permission granted Unit 1 344sqm, with 121sqm mezzanine, unit 2 929sqm with 408sqm mezzanine, and unit 3 929sqm with 279 mezzanine (total 3010sqm)

KET/2005/1030 Erection of 2 non-food retail outlets (A1) and additional mezzanine, with access, servicing, car parking arrangements and landscaping. Reposition existing car wash REFUSED 3/2/06

KET/2001/0491 Erection of retail park with replacement premises for car wash and teamwork and creation of industrial plot with demolition of

existing buildings and partial truncation of Stanier Close REFUSED by SoS 17/5/04

KE/2000/0318 Erection of a non-food retail warehouse (Use class A1) together with access, servicing and car parking arrangements and landscaping APPROVED 4/7/00 (Wickes) (front part of site only)

KE/1997/0331 Construction of industrial unit & access road APPROVED 3/9/94

### **Site Description**

Officer's site inspection was carried out on 7 and 20 December 2012. The site boundary includes the access from Northfield Avenue (to the customer car park), as well as the access from Stanier Close (for deliveries). The red line covers 3 retail units, Unit 1 (Maplin), Unit 2 (former Comet) and unit 3 (PC World). The site is adjacent to Wickes extra and Carpetright, and parking provision is shared with these units. The site fronts onto Northfield Avenue to the south, is adjacent to the Wickes unit and car parking to the west, commercial units to the north, and the partly completed development of bulky goods retail units and car park to the east, which currently only includes Dunelm.

### **Proposed Development**

The application is for the variation of condition 3 of KET/2009/0406 which was for 3 retail units and a car wash. The permission restricted the use of the 3 retail units to A1 bulky goods only (restricted specifically to DIY/garden goods and furniture, carpets and floorcoverings, bulky electrical goods and related goods).

The condition currently reads as follows:

*The premises hereby permitted shall not be used other than for the sale of bulky non-food retail items as follows:-*

*DIY/garden goods and furniture, carpets and floorcoverings, bulky electrical goods and related goods and for no other purpose in Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any Statutory Instrument revoking and re-enacting that Order with or without modification.*

*REASON: In accordance with National and Local Planning Policies and to define this permission.*

The application seeks to change the permitted use of Unit 2 (the former Comet unit) from bulky goods to allow the sale of non-bulky comparison goods not including the sale of ancillary food and drink to be consumed off the premises, tobacco, flowers, holidays and other travel related items, which would be restricted to up to 20% of the net retail floorspace. Unit 2 has a gross internal floorspace area of 929sqm plus 835sqm mezzanine floorspace (total 1764sqm).

As the application seeks to vary a previous permission, the red line is the same as the previous permission (and covers the existing 3 retail

units and the car wash which has never been implemented), however, the variation of condition 3 only relates to the comet unit (unit 2). The other two units would remain restricted to the sale of bulky goods only.

### **Any Constraints Affecting the Site**

A Road  
Flood Plain  
S106

## **4.0 Consultation and Customer Impact**

### **Highway Authority**

Insufficient information to provide a full response, wish to see a Transport Statement to deal with traffic volumes using the Belgrave Retail Park and impact on site access points and the nearby Rothwell Road roundabout.

A revised Transport Assessment has been submitted.

### **Environmental Health**

No comments.

### **Police**

No objection.

### **Neighbours**

Two letters of objection have been received.

29 Leicester Close object on the grounds of traffic and litter creation.

Ellandi object on the grounds that they have a sequentially preferable town centre site that could accommodate the proposed development.

## **5.0 Planning Policy**

### **National Planning Policy Framework**

- 1 Building a strong competitive economy
- 2 Ensuring the vitality of town centres
- 4 Promoting sustainable transport

### **Development Plan Policies**

#### **North Northamptonshire Core Spatial Strategy**

- 1 Strengthening the network of settlements
- 4 Enhancing local connections
- 6 Infrastructure delivery and developer contributions
- 8 Delivering economic prosperity
- 9 Distribution and location of development
- 12 Distribution of retail development
- 13 General sustainable development principles

### **Local Plan**

58 – Employment within towns

## **Kettering Town Centre Area Action Plan**

3 – Primary Shopping Area and the evening economy

15 – The Shopping Quarter

16 – Site SHQ1 Wadcroft/Newlands Phase 1

### **6.0 Financial/Resource Implications**

Section 106 – deed of variation required to ensure outstanding monies are paid.

### **7.0 Planning Considerations**

The key issues for consideration in this application are:-

1. Principle of Development
2. Sequential Assessment
3. Impact Assessment
4. Highways impact including parking
5. S106 obligations

#### **1. Principle of Development**

The permission that this application seeks to vary was determined on the 27/10/09. The application was considered in light of the policy context at the time. Since that time, the policy context has altered in that the NPPF has been published and the Kettering Town Centre AAP has been adopted. However, the policy context remains similar in that both applications are considered in the context of the majority of the development covered by the permission already having consent.

The only difference between the development that has consent (the retail units of which have implemented), and this new application is the principle of amending the range of goods to be sold from the Unit 2 (former Comet). This is considered below.

The application site is located in the growth town of Kettering. National policy is clear that retail should be directed to town centres. Local policies also support this approach. The site is located in an out of centre location, being over 300m walking distance from the defined primary shopping area.

Policy 1 of the adopted CSS states that development will be focused upon towns, with an emphasis on regeneration of town centres in order to provide jobs and services. Policy 9 states that town centres will be strengthened as the focal point for retail, employment, leisure and other uses attracting a lot of people. The policy supports the adoption of Area Action Plans to enable significant new development in town centres. Policy 12 requires that Kettering make provision for a minimum of 20,500sqm of net comparison shopping floorspace. Policy 12 states that where there is an identified need for retail development, a

sequential approach to its location should be followed. The scale of retail should also be appropriate to the role and function of the centre where it is located and not have an adverse impact on the long term vitality and viability of the centre, or the ability of North Northamptonshire to retain expenditure. The supporting text to the policy states that applications over 1000sqm gross floorspace should include an impact assessment. The sequential approach, scale and the impact of the proposal are discussed further below.

The Council adopted the Kettering Town Centre AAP in 2011. The AAP allocated land in Kettering town centre for retail development. The Council have allocated site SHQ/1 to provide around 16,000sqm net A1 floorspace. Sites SHQ/4, 5 and 6 are also allocated to deliver A1 floorspace, in associated with residential development. Combined, the sites are allocated to provide a minimum 20,500sqm of net comparison retail floorspace by 2021.

The emerging CSS (emerging draft August 2012) does not contain a retail policy and as such cannot be considered relevant.

Town centre uses are also 'economic development' as defined in the NPPF. A core principle of the NPPF is to proactively drive and support sustainable economic development. Local Plan policy 58 supports commercial development within existing commercial areas, provided they conform with other policies. CSS policy 1 states that jobs should be provided through the regeneration of town centres.

Although the unit is located in the growth town of Kettering, which is the Borough's focus for retail growth and jobs, the unit is out of centre. Therefore, the change of use from A1 bulky goods retail to restricted non-bulky comparison goods with 20% ancillary goods in this out of centre location is contrary to adopted Development Plan policy. CSS policy 12 and NPPF policy 2 require that a sequential approach and an impact test are required for the proposal. These are discussed below.

## 2. Sequential Assessment

The NPPF states that the sequential test should be applied to main town centre uses that are not in an existing centre and not in accordance with an up to date development plan. Flexibility should be sought on issues such as scale and format.

The application proposes A1 retail which is a main town centre use and the site is an out of centre location (more than 300 metres walking distance from the defined primary shopping area (PSA)). It is noted that the applicant considers that the Belgrave/Northfield retail park site is approximately 250m from the PSA and therefore they consider it edge of centre. However, the application site has been measured as more than 300m walking distance from the PSA and is therefore out of centre.

The applicant's sequential assessment has identified 93 potential sites



for the proposed use, and these have been assessed in terms of their availability, suitability and viability. The assessment has adopted a timeframe of 3-5 years for the availability assessment, and this is considered reasonable in this instance. The suitability test has been informed by the type of operator that may be interested in the unit, if the use restriction is amended. Such operators are considered to be Poundland, Home Bargains, 99p stores, Family Bargains and Poundstretcher. These retailers operate in both town centre and out of centre locations, and so their locational needs are flexible. The assessment considered units of 75-150% of the application unit as suitable for the proposed use.

The applicant's assessment discounted 85 of the 93 identified sites (those that were too small, already occupied etc) and considered 8 in more detail. The applicant's assessment concluded the following:

	<b>Available</b>	<b>Viable</b>	<b>Suitable</b>
SHQ1 Wadcroft/Newlands Phase 1	Unavailable		
SHQ4 Iceland car park		Unviable	Unsuitable
SHQ5 Tanners Gate 1, Northhall Street	Unavailable		Unsuitable
SHQ6 Tanners Gate 2	Unavailable		Unsuitable
NRQ5 Former comet, Meadow Road		Unviable	Unsuitable
SSQ5 Beddows Motors and adjacent land, Queen Street			Unsuitable
AE Smith Bodycraft and adjacent land, Carrington Street	Unavailable		Unsuitable
37-41 Montagu Street (on corner with Eskdail St)	Unavailable		Unsuitable

Although the 8 sites are appropriate for the development, they have all been dismissed. In this instance it is considered by Officers that the allocated sites would not be available to the applicant for the use proposed, without the need for other associated development.

The applicant was also asked to consider the Gold Street site (part of site SHQ/1), suggested as a sequentially preferable site by Ellandi in their objection letter. Two development options of the site were

considered; a new unit in the rear car park, and comprehensive redevelopment of the site to enable the occupation of a single unit. Officers consider that the first option is unsuitable for the use, and the second option is unviable for a single unit.

Officers consider that the applicant has also demonstrated why the floorspace proposed could not be disaggregated across smaller units in the town centre. And, that the applicant has also demonstrated that the former comet unit (on site NRQ5) cannot accommodate a mezzanine level, which makes that unit too small for the use proposed.

Therefore, Officers consider that the applicant has satisfied the sequential approach, and demonstrated that there are no available and suitable sites in sequentially preferable locations. The application therefore meets policy 2 (paragraph 24) of the NPPF and the sequential test in policy 12 of the CSS.

### 3. Impact Assessment

The NPPF states that an impact assessment is required for retail development if a locally set threshold is reached. The local threshold is 1000sqm, as discussed above.

The NPPF states that the impact assessment should cover:

- Impact on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal, and
- 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 5 years from the time the application is made.

The applicant has therefore submitted an impact assessment with the application. The assessment concludes that the catchment of the proposal is Kettering and Burton Latimer, and surrounding villages.

The applicant's assessment has taken account of the fact that the unit is an existing unit. The fact that the unit has bulky-goods retail permission is a material consideration, but the assessment has considered the worse-case impact scenario.

The impact assessment assumes a sales density of £4,000 per sqm, and Officers consider this is reasonable. As the use proposed is a less restricted retail use it could have disproportionately greater impacts on in-centre facilities than the existing bulky goods use. The applicant has not finalised an occupier for the unit. Therefore, it is possible that an existing town centre retailer could re-locate to the unit, e.g. Boots.

The applicant's assessment concludes that if the use of the unit were to

be changed as proposed, the trade diversion from Kettering town centre would be £2.06m in 2017, and the impact on Belgrave Retail Park would be £1.7m in 2017.

Officers consider that the impact on the town centre has been underestimated, as the type of occupier the applicant has shown is interested in the unit (Poundland, 99p stores etc) would compete with town centre retailers, rather than the bulky-goods operators in out of town locations. However, on balance, even taking that into account, the trade diversion would still not have a significant effect on the solus and cumulative impacts discussed below.

The applicant's assessment states that the solus impact of the application (i.e. the impact of this proposal only) on the turnover of Kettering town centre will be -0.22% in 2017. Officers consider this level of impact is not significant.

The cumulative impact (i.e. the impact of this permission plus other extant retail permissions) would be higher at -4.4% in 2017. Even at this level, Officers consider that the application proposals will not give rise to any significant impacts on town centre trade and turnover.

This application has been submitted to enable bargain retailers to occupy the unit. However, when the market picks up, the permission being sought here will attract other types of retailers, including those that the Council wishes to attract to the town centre. Therefore, Officers consider that the goods restriction on the unit should include no sale of clothes and shoes, to limit the type of retailer the unit could attract. Also, this would potentially mean that current town centre retailers would not be tempted to relocate here, minimising the potential impact on the vitality and viability of the town centre.

In addition, Officers consider that a new condition should be applied to unit 2, preventing sub-division of the unit. This will also ensure that town centre retailers are not tempted to relocate to this out of centre location.

Therefore, Officers consider that the impact test has been satisfied, as the proposal is not likely to have a significant adverse impact on Kettering town centre. Conditions are recommended to secure the restricted use of unit 2, and to ensure that the unit is not sub-divided.

#### 4. Highways impact including parking

CSS policy 4 requires that local connections within urban areas are enhanced, and that bus services and walking and cycling networks are improved. CSS policy 13 requires development to have a satisfactory access, parking and servicing, allow for travel by foot and bicycle and not have an adverse impact on the highway network.

The application includes an assessment of how the change of use would affect vehicle trip rates. The assessment concludes that there is no

evidence to suggest that the proposed change of retail offer at the former comet store could be expected to result in a significant increase in traffic levels. Any additional traffic is also expected to be outside of traditional peak hours. Therefore, no adverse highway impacts will result.

#### 5. Section 106 Obligations

CSS policy 6 requires development to be supported by the necessary infrastructure. There is an existing S106 obligation on the site and two deeds of variation. There are some monies outstanding. Therefore a deed of variation will be required to ensure those monies can be collected.

Highways have not requested any highways contribution for this application.

#### **Conclusion**

The variation of condition 3 to allow a wider range of goods to be sold from the former Comet unit, is considered acceptable in this instance. Although the Development Plan is not supportive of out of town retail provision, the applicant has demonstrated that the sequential and impact tests have been satisfied, and the application is not likely to have an adverse impact on the long term vitality and viability of Kettering town centre. Therefore subject to the imposition of conditions and a S106 deed of variation, the application is recommended for approval.

#### **Background Papers**

Title of Document:

Date:

Contact Officer:

#### **Previous Reports/Minutes**

Ref:

Date:

Susan Garbutt, Senior Development Officer on 01536 534316

# SITE LOCATION PLAN

Belgrave Retail Park, Northfield Avenue, Kettering  
Application No.: KET/2012/0737



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