

DEVELOPMENT CONTROL BOARD

4 July 2019

Reference: 18/01569/FUL

Officer: Steve Fraser-Lim

Location: Hawley Garden Centre
Hawley Road
Hawley
Kent
DA2 7RB

Proposal: Erection of a single storey extension to garden centre including extension to cafe and kitchen, use of land for external seating area and childrens play area

Applicant: Hawley Garden Centre/Ms J East

Agent: Graham Simpkin Planning

Parish / Ward: Sutton At Hone & Hawley P.C. OLD 2019 / Sutton At Hone & Hawley OLD

RECOMMENDATION:

Approval

SITE DESCRIPTION

(1) The application site is a retail garden centre comprising a number of different buildings developed incrementally over time. The garden centre is situated on the west side of Hawley Road and to the north of M25 motorway. Open fields are situated to the west and north.

(2) The area of the garden centre where the proposals are located is towards the eastern boundary in a wedge-shaped area that is currently occupied by some external seating for the existing café and an area of grass. It is adjoined by the rear gardens of two storey terraced dwellings fronting Hawley Road, and the rear garden of the Papermakers Inn Public House to the east.

(3) The whole garden centre site, including the area of land on which the proposals are located is designated as green belt.

THE PROPOSAL

(4) The proposals comprise erection of a single storey extension to the garden centre including extension to cafe and kitchen, use of land for external seating area and children's play area.

(5) The proposed extension will replace an existing decked outdoor seating area and pavilion which will be removed as a result of the proposals. A new outdoor seating area is proposed further to the north, adjacent to the boundary with the Papermakers Arms Public House to the east. The children's play area would be equipped low-level apparatus constructed of mainly wooden poles used as different types of balance beams and a circular tunnel made of hard plastic. The existing kitchen cooking equipment and extract will remain unchanged as a result of the proposal.

RELEVANT HISTORY

(6) There are a large number of applications for extensions to the garden centre, changes of use to allow other commercial uses on the site, and applications for the display of advertisements, dating back to the 1960s. The most relevant previous application at the site is

08/01456/COU - continued use of part of existing retail garden centre and restaurant for occasional cabaret/comedy shows (maximum 12 in any one calendar year), granted planning permission on 02.12.2008.

COMMENTS FROM ORGANISATIONS

(7) Sutton at Hone Parish Council: Raise concerns with regard to noise and disturbance, as well as smells and fumes that result from the proposed use, and how they may impact upon Leigh Place cottages.

(8) Kent Flood and Suds team: The proposals are low risk, given the proposed extension is located within an area which already has hard surfacing. Therefore no objections or further comment on the proposals.

(9) Environment Agency: No objection provided that conditions are included requiring submission of a remediation strategy if contamination is found, and no infiltration into the ground.

(10) Thames Water: There are public sewers crossing or close to the development. Any significant work near their sewers should minimise the risk of damage. With regard to surface water drainage, Thames Water advise that if the developer follows the sequential approach to the disposal of surface water they would have no objection. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required.

(11) Environmental Health: Details of any air extraction, odour control and discharge to atmosphere from cooking operations, including any external ducting should be secured by conditions.

NEIGHBOUR NOTIFICATION

(12) Twenty-four neighbouring properties have been consulted, a press notice issued and site notice displayed. Two responses have been received to date of which are objections, raising the following issues:

- Proposals could result in overlooking and loss of privacy, particularly as a result of tree works that have reduced screening.
- There is history of building works and uses taking place at the site without planning permission, for instance Scaffolding yard in the green belt and car wash. This has resulted in rubbish being dumped on public footpaths adjacent to the site.
- Concerned about impact of the proposals on property prices.
- Proposals are inappropriately located within the site.
- Proposals would result in increased noise disturbance.

RELEVANT POLICIES

(13) The Dartford Core Strategy 2011, the Dartford Development Policies Plan 2017 and the Kent Minerals and Waste Local Plan 2016 form the Dartford's Development Plan and the application should be determined against this unless material considerations indicate otherwise.

(14) Adopted Dartford Core Strategy adopted 2011
CS1: Spatial pattern of development
CS12: Network of shopping centres
CS13: Green belts

(15) Adopted Dartford Development Policies Plan 2017
DP1: Presumption in favour of sustainable development
DP2: Good Design
DP3: Transport impacts of development

DP5: Environmental and amenity protection
DP7: Borough Housing Stock and Residential Amenity
DP11: Sustainability and construction
DP14: Retail and town centre development
DP22: Green Belt in the borough
DP25: Nature conservation and enhancement

(16) The NPPF is also a material consideration. Sections: 2 (achieving sustainable development); 6 (building a strong competitive economy); 7 (ensuring the vitality of town centres); 12 (achieving well designed places); and 13 (protecting green belts) are all of relevance to the application.

COMMENTS

Key Issues

(17) I consider that the key issues to be considered are: the principle of extending a 'town centre use' in this location; impact of the proposals upon the Green Belt; impact on the amenity of neighbours in terms of privacy and overlooking; potential for increased noise and disturbance; and building design. The impact on highway safety and amenity is also a consideration.

Principle of proposed retail floorspace in this location

(18) Policy CS12 identifies a network of shopping centres including Dartford and Bluewater. Policy DP14 directs new retail development to these locations and states that 'A' class development outside of these centres will not be permitted unless it can be demonstrated that there are no sequentially preferable sites available. NPPF paragraph 64 reiterates this position and states that "town centre uses should 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".

(19) The proposed café extension represents a 'town centre use' and the aforementioned policies require its location within designated town centres, in the first instance. However in this case the proposed café extension is modest in scale in comparison to the much larger scale of the garden centre. Its purpose is to support and provide ancillary services to the existing garden centre use. This is to maintain the attractiveness of the business in comparison with other garden centres in the wider area. The proposed extension is not of such scale that it would significantly expand the café offer, but rather would provide some uplift in seating space, along with a qualitative improvement to café and kitchen facilities.

(20) As such the proposed café facilities have a clear requirement to be located within the existing garden centre. It would not be possible to disaggregate the café use from the wider garden centre operation. Therefore there are no other sites which would be sequentially preferable or suitable to accommodate the proposals. The small scale of the proposed use and its specialised character, would ensure that it would not compete with or harm the vitality and viability of other designated retail centres. The provision of additional A Class floorspace in this location would therefore not detract unduly from the retail hierarchy identified by policy CS12 and would be broadly in accordance with policy DP14.

Impact of the proposals upon the Green Belt

(21) The whole of the Hawley Garden Centre site is located within the Green Belt. Policy CS13 sets out the spatial pattern of development, which seeks to ensure a balanced and sustainable pattern of land use and transport. The strategy identifies three priority areas for development in the urban area, away from the Green Belt.

(22) The NPPF highlights in paragraph 133 that the Government attaches great importance to Green Belts, and their essential characteristics of openness and permanence. Paragraph 145 states that the construction of new buildings within the Green Belt is inappropriate, with the exception of: a) buildings for agriculture or forestry; b) provision of appropriate facilities for

outdoor sport and recreation; c) extensions and alterations to existing buildings provided they are not disproportionately large; d) replacement buildings of the same use and size; e) limited infilling in villages; f) affordable housing exception sites; g) limited infilling or partial or complete redevelopment of previously developed land, provided there is no loss of openness.

(23) Policy DP22 reiterates the above approach and the exceptions set out by CS13 and in NPPF paragraph 145 above. The policy also provides greater clarity on each of the exceptions set out above.

(24) The area of the garden centre site where the proposed extension is located, has mostly remained open in appearance with the exception of an area of decking and a covered outdoor seating area which will be demolished to make way for the proposed extension. As such the proposed café extension, outdoor seating area and playground would decrease the level of openness of this particular area of Green Belt.

(25) However the proposed extension will be located on a small wedge of open land, adjacent to the existing main garden centre building to the east, which is much larger than the proposed extension. The proposals are adjoined to the east by two storey terraced houses, which are within the Hawley settlement boundary. This small area of greenbelt on which this extension is sited would not be appreciated in wider views. As such the proposals could be considered to constitute exceptions set out in the NPPF paragraph 145, part (g) for "limited infilling or the partial or complete redevelopment of previously developed land with no significant loss of openness".

(26) In terms of extensions to buildings, Policy DP22 states that in order to be proportionate and subservient, extensions should be no more than 30% of the volume of the original building. The proposed extension at 155sqm in proposed floorspace would be small in scale in comparison to the existing garden centre buildings, which amounts to 4305sqm of floorspace. Some 551.5sqm of floorspace has been granted at the garden centre as a result of previously approved planning permissions. None the less the proposed extension when considered cumulatively in conjunction with other previously approved extensions would still be considered to be below the 30% scale allowed for by policy DP22. As such the proposals could also be considered to meet the exceptions within NPPF paragraph 145, part (c) for extensions and alterations to existing buildings provided that they are not disproportionately large.

(27) Given the above factors I consider that the proposals would meet the exceptions set out within policies CS13, DP22 and NPPF paragraph 145 and would not result in harm to the openness and visual quality of the green belt and would not conflict with any of the purposes for including land within the greenbelt.

Impact on the amenity of neighbours in terms of privacy and overlooking

(28) Concerns have been raised from neighbouring properties that due to the location of the proposed extension and outdoor seating area, it would allow views into neighbouring gardens and windows. The extension is located adjacent to the boundary with the rear garden of no.6 Hawley Road, but due to the angle of the rear boundaries the extension would be 3-3.5m from the rear garden of no.1. A hedge is situated along the boundary between the garden centre and these houses, although it is relatively sparse in places, and as such some views from the proposed extension into neighbouring gardens may be possible. As such the applicants have agreed to redesign the windows within the side wall of the extension so that they are located above eye level, to reduce potential overlooking. In addition the wedge of land between extension and boundary with neighbouring properties nos. 1-6 Hawley Road will be landscaped, to provide further screening and to ensure that customers will not be able to access this area. Details of landscaping and measures to prevent customer access will be secured by condition. These measures are considered sufficient to ensure that the proposals would not result in an undue loss of privacy to neighbouring residential properties to the east.

(29) In addition the proposed play area will also be located close to the boundary with the garden area of the Papermakers Public House. The location of the proposed play area adjacent to the pub beer garden, which I note also has some children's play equipment, would not result

in undue loss of privacy to this adjoining use, as it is of similar character to the proposed development and would not require the same levels of privacy as a residential garden.

(30) As such subject the above measures the proposals will not result in an undue impact on the privacy of neighbouring properties, in accordance with policy DP7.

Potential for increased noise and disturbance upon the amenity of neighbouring occupiers

(31) Concerns have been raised that the proposals would result in an increase in noise and activity in closer proximity to neighbouring residential properties. This is a particular issue as the Garden Centre has planning permission to open during the evenings on 12 occasions during the year for Cabaret events (see planning history), and the café extension and outdoor seating area could potentially be used during such events. The structure of the existing extension would be sufficient to prevent noise breakout and ensure that this element of the proposal would not result in noise disturbance.

(32) However use of the outdoor seating area in the evenings as part of cabaret events, including for smoking, could result in some disturbance in my view. The applicant has agreed to a planning condition which restricts use of the outdoor seating area to no later than 6pm during the week and 4pm on Sundays - in line with the opening hours of the cafe, thus preventing any evening use. Customers who need to smoke during cabaret events in the evenings will be required to use the outside area adjacent to the main Garden Centre entrance, which is further from the adjacent dwellings, and screened by existing buildings.

(33) Use of the proposed play area during the day is not considered to result in undue noise impacts on adjoining residential properties. This is because it is located further from these properties, adjacent to the pub beer garden, and would be unlikely to result in higher noise levels than this existing adjoining use. In addition the existing kitchen extract remains unaltered as a result of the proposals and no new kitchen extract equipment is proposed. Therefore there would be no increased noise from plant and machinery.

(34) Given the above factors the proposals are not considered to result in undue noise disturbance to adjoining properties in accordance with policy DP5.

Building Design

(35) The proposed extension is of simple appearance with profiled metal clad facades and composite tiled roof. However it would be modest in scale in comparison to the much larger garden centre buildings, which feature a range of building styles and materials. The extension would also be largely screened by existing buildings, and would not therefore be visible in longer distance views. As such the proposals are not considered to detract unduly from the appearance of the garden centre or wider area, in accordance with policy DP2.

Highway safety/amenity

(36) As noted above, the proposed café extension is modest in scale in comparison to the much larger scale of the garden centre. It's purpose is to support and provide ancillary services to the existing garden centre use. This is to maintain the attractiveness of the business in comparison with other garden centres in the wider area and it is not therefore anticipated that the café extension would result in a notable increase in traffic using the car park and accessing the site. The proposed extension is not of such scale that it would significantly expand the café offer, but rather would provide some uplift in seating space, along with a qualitative improvement to café and kitchen facilities. I therefore consider that the proposal would have no undue impact on highway safety and amenity.

Other matters

(37) Some concerns have been raised with regard to the impact of the proposals upon property prices. However this is not a material planning consideration which the local planning

authority can consider. Other factors which influence property prices, such as residential amenity are considered above.

FINANCIAL BENEFITS

(38) Under section 75ZA of the Town and Country Planning Act officer reports to the Development Control Board are required to include a list of 'financial benefits' which are likely to be obtained by the authority as a result of the development. A 'financial benefit' must be recorded regardless of whether it is material to the Council's decision. Government advice is that the decision maker should consider whether it is a material consideration in the consideration of a planning application.

(39) In this particular case the following are the 'financial benefits' which I am aware of: Community Infrastructure Levy: CIL is charged on the net increase in floorspace of the proposed development. However the Dartford CIL Charging Schedule, only requires a CIL payment, where more than 500sqm of retail floorspace is proposed. As such the scale of the proposed development would result in a CIL liability of £0.00.

HUMAN RIGHTS IMPLICATIONS

(40) The application has been considered in the light of the Human Rights Act 1998. I am satisfied that my analysis of the issues in this case and my consequent recommendation are compatible with the Act.

PUBLIC SECTOR EQUALITY DUTY

(41) Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

ENVIRONMENTAL IMPACT ASSESSMENT REQUIREMENTS

(42) In relation to the Town and Country Planning (Environmental Impact Assessment Regulations) 2017):

- (i) the proposal is not Schedule 1 or Schedule 2 development. It is not considered necessary to require a screening opinion.

CONCLUSIONS AND REASONS FOR RECOMMENDATION

(43) The proposed development as a 'town centre use', given its specific character would be appropriate in this location. The proposals would not be inappropriate development in the Green Belt and would not have a harmful impact on its openness. Subject to conditions the proposals would not result in any loss of privacy or increased noise and disturbance to adjacent properties. As such I consider the proposal is in accordance with adopted planning policy.

RECOMMENDATION:

Approval

- 01 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 01 In pursuance of Section 91(1) of the Town and Country Planning Act 1990.
- 02 The development shall be carried out in accordance with the following plans and documents: 1565/50 RevA; 02; 03; 04; 05; 06; 07; Planning Statement by Graham Simpkin Planning Ref: GKS/TR/1565.
- 02 For the avoidance of doubt and to ensure a satisfactory form of development.

- 03 Prior to occupation of the development hereby approved, a landscaping scheme including both hard and soft landscaping and details of boundary treatments, shall be submitted to and approved by the Local Planning Authority and shall be implemented prior to first occupation (unless this falls outside of the planting season in which case it shall be implemented at the first opportunity during the following planting season, between October and March inclusive). Such landscaping shall thereafter be maintained for a period of five years.

Any trees, shrubs or grassed areas which die, are removed or become seriously damaged or diseased within this period shall be replaced within the next planting season with plants of similar species and size to that approved.

- 03 To safeguard the visual amenities and privacy of the locality in accordance with Policies DP2, DP7 and DP25 of the adopted Dartford Local Plan.
- 04 No structure, plant, equipment or machinery shall be placed, erected or installed on or above the roof or on external walls of the extension hereby approved without the prior approval being given in writing by or on behalf of the Local Planning Authority which shall only be given if it can be demonstrated that there would be no disturbance to local residents by virtue of noise, odour or vibration.
- 04 In order not to prejudice the visual appearance of the building, or the amenity of adjacent properties in accordance with Policy DP2 and DP5 of the adopted Dartford Local Plan.
- 05 No use of the outdoor seating area and children's play area hereby approved shall be carried on outside the hours of 09:00 to 18:00 Mondays to Saturdays and 09:00 to 16:00 on Sundays or Bank Holidays.
- 05 To avoid unreasonable disturbance outside normal working hours to nearby residential properties contrary to Policy DP5 of the adopted Dartford Local Plan.
- 06 The extension hereby permitted shall be used only as a café ancillary to the main retail use of the Garden Centre and for no other uses, including any other falling within Classes A1 and A3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, (or for any order amending, revoking and re-enacting that Order) and any other use whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not.
- 06 In the interests of residential amenities and highway safety and amenity in accordance with Policies DP3, DP4 and DP5 of the adopted Dartford Local Plan.

INFORMATIVES

- 01 There are public sewers crossing or close to your development. In order to protect public sewers and to ensure that Thames Water can gain access to those sewers for future repair and maintenance, approval must be sought from Thames Water where the erection of a building or an extension to a building or underpinning work would be over the line of or would come within 3 metres of a public sewer. Thames Water will usually refuse such approval in respect of the construction of new buildings, but approval may be granted in some cases for extensions to existing buildings. The applicant is advised to contact Thames Water Developer Services on 0845 850 2777 to discuss the options available at this site.
- 02 With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not

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Address :	Hawley Garden Centre Hawley Road Hawley Kent DA2 7RB
Date: 20 June 2019	Scale: Not to Scale