

UTT/18/1299/FUL - (SAFFRON WALDEN)

(Major)

PROPOSAL: Amendments to planning application UTT/13/0268/FUL, incorporating amendments approved under UTT/17/1782/FUL to allow the change of use of Unit 3 from Class A1 retail to Class D2 Gym

LOCATION: Site At Thaxted Road (former Civic Amenity And Granite Site), Thaxted Road, Saffron Walden

APPLICANT: Granite Thaxted Road Limited

AGENT: Barton Willmore

EXPIRY DATE: 6 July 2018

CASE OFFICER: Maria Shoesmith

1. NOTATION

- 1.1 Part within Development Limits/Part within Employment Land, Part within Employment Land to be Safeguarded

2. DESCRIPTION OF SITE

- 2.1 The site is situated on the southern approach to Saffron Walden on the eastern side of the B184. The site as a whole is roughly rectangular in shape, incorporating the former Civic Amenity site, a former Highways Depot, an open field and the site formerly occupied by Granite. The frontage of the site is approximately 190m and the site has a depth of approximately 175m (3.33ha). An access road to the new Community Recycling Centre (CRC), Highways Depot and Howdens building also forms part of the application site. This new access road was constructed to serve the new CRC and Highways Depot and effectively determines the proposed levels within the site.
- 2.2 The site runs from south east to north west and the ground levels vary by several metres, falling away towards the northwest. The site levels have since varied since the assessment of the first application as the first phase of the development has been implemented in the form of the Aldi store, which is located to the front of the site. The Discount food store unit has a height ranging between 6.4 -8.6m, and a floorspace of 1,578 square metres. This unit would be similarly constructed to the other proposed units.
- 2.3 The byway running along the northern edge of the site is approximately 5m lower than the proposed site levels. This difference in site and highway levels forms a landscape buffer zone screening the site. The plot to the southeast is at a higher ground level to the rest of the application site also framed by a bank of landscaping.
- 2.4 Within the application site, to the east, are the former buildings occupied by Granite. Adjacent to the access road is the former Civic Amenity Point (CAP) which is hard surfaced and to the north east of the CAP is an area formerly used as a Highways Depot. This area is covered in hard material, predominantly old broken up road surfacing material. To the north east of this, and adjacent to the Granite building, is an

area of open land that has been used to deposit spoil and large pipes, possibly from the construction of the new access road.

3. PROPOSAL

3.1 The original application was for the demolition of existing buildings on site and the redevelopment of the site to comprise 3no. retail warehouse units and an associated garden centre (Class A1), a discount foodstore (Class A1), and a café (Class A3), including associated landscaping, servicing areas, car park, access, internal roads and cycle/footway, including the provision of access to adjoining land. This was granted planning permission in May 2013. The first phase of this development, the discount food store (Aldi), has been built out, leaving the north-eastern half of the site. (reference UTT/13/0268/FUL)

3.2 A recent application (UTT/17/1782/FUL) sought the variation/omission of conditions 8 and 27 of the approved consent to allow amendments to the layout, floorspace, and goods in response to identified potential end users. The conditions state;

Condition 8:

“Units 1-3 and garden centre hereby permitted shall be used for the stated purpose and for no other purpose (including any other purpose within Classes A1) of the Schedule of the Town and Country Planning (Use Classes Order) 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). The use of these shall be limited to the sale of DIY goods, furniture, floor coverings, leisure and garden products, motor accessories, electrical, homewares and pets/pet related products and ancillary veterinary surgeries and animal grooming other non-food bulky goods but not including fashion wear items or fashion foot wear.

REASON: To define the scope of the permission and to specify the sale of goods so as to not cause unacceptable harm to the vitality and viability of the town centre, in accordance with NPPF.” And;

Condition 27:

“The mezzanine floorspace of 186 sq m in Unit 2 shall be used for ancillary purposes only and not for the sale of retail goods within Class A1 of the Town & Country Planning (Use Classes) Order 1987 (or any other Order amending, revoking and re-enacting that Order).

REASON: To define the scope of the permission and to specify the sale of goods so as to not cause unacceptable harm to the vitality and viability of the town centre, in accordance with NPPF.”

3.3 The approved scheme has floorspace area of 3,531 square metres for retail warehousing and 190 square metres for the proposed café. The units would be constructed from metal cladding panels with aluminium rain screens.

3.4 Below is a breakdown of the approved floor space and the proposed floorspace amendments;

- Retail Warehouse Unit 1 – approved 517 sq m GEA proposed amendment to 557sqm GIA
- Retail Warehouse Unit 2 – approved 2,020 sq m, with an outdoor garden

centre extending to 1,114 sq m including a garden centre lobby of 108 sq m GEA and staff mezzanine of 186sq.m including, proposed amendment to 2,043sqm and garden centre 650sqm;

- Retail Warehouse Unit 3 – 700 sq m GEA proposed amendment to 650 sqm;
- Discount foodstore – 1,578 sq m GEA (1,125 sq m net sales area) this element has been implemented, and
- Café (Class A3) – 190 sq m GEA with an external seating area, proposed amendment to 167 sqm.

3.5 The recently approved application indicated amendments to the parking layout and the number of parking spaces to be provided. It is proposed that an additional 43 car parking spaces top the west of the site would be provided indicating a total of 135 space adjacent to the Aldi scheme. Also, 126 including 6 disabled parking bays, 10 cycle bays and 5 motorcycle bays.

3.6 The approved units would be single storey and having a height of 9-9.5m.

3.7 The main existing entrance from Thaxted Road would be used for the proposed development. The access road currently serving the CARC facility, highway depot and the now Howdens store would be moved for highway safety reasons to prevent highway conflict with proposed access road that would serve the units. The scheme indicates a continuation of the pedestrian link accessed from Thaxted Road to the main retail store/through the centre of the site.

3.9 This current application now before use seeks to change the use of one of the units. Unit 3, from Use Class A1 retail to Use Class D2 gym. No other amendments to the scheme are proposed as part of this application.

4. Environmental Impact Assessment

4.1 Town and Country Planning (Environmental Assessment):
The proposal is not a Schedule 1 development, exceeds the threshold criteria of Schedule 2, however the application has been screened and an Environmental Assessment is not required.

4.2 Human Rights Act considerations:
There may be implications under Article 1 and Article 8 of the First Protocol regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions; however, these issues have been taken into account in the determination of this application.

5. APPLICANT'S CASE

5.1 Various documents have been submitted as part of the planning application, which have been listed below;

- Air Quality Assessment

- Planning Statement
- Transport Assessment
- Location Plan

6. RELEVANT SITE HISTORY

- 6.1 The application site has a long planning history; the most relevant planning applications are listed below;
- 6.2 UTT/18/1303/FUL - Application to vary condition 7 of planning permission UTT/17/1782/FUL (Amendment to application UTT/13/0268/FUL in terms of design and layout, variation of conditions 8 and 27 to amend the control over retail space details relating to materials, landscaping, cycle parking energy efficiency, lighting, drainage and remediation included) to allow for the unrestricted sale of Class A1 goods (non-food only) and the insertion of a mezzanine floor. - Currently under determination
- 6.3 UTT/18/1344/FUL - New electricity substation with associated retaining walls and external works. – Currently under determination
- 6.4 Planning permission was recently granted for “*Amendment to application UTT/13/0268/FUL in terms of design and layout, variation of conditions 8 and 27 to amend control over retail space details relating to materials, landscaping, cycle parking*” This was granted planning permission 19 December 2017, subject to conditions and S106 Agreement. (UTT/17/1782/FUL).
- This current application now seeks to change the use of one of the approved units.
- 6.5 Planning permission was granted for “*Demolition of the existing buildings and redevelopment to comprise retail warehouse units and associated garden centre (Class A1), a discount foodstore (Class A1), and a cafe (Class A3), including associated landscaping, car park, access, internal roads and cycle/footway, including the provision of access to adjoining land.*” (UTT/13/0268/FUL, 10 May 2013).
- This is the main historical application.
- 6.6 UTT/13/0269/AV - The erection of a totem pole sign - granted Advertisement Consent 4 April 2013.
- 6.7 There has been a recent application for the renewal of UTT/1788/07/OP this has been approved subject to conditions and a Section 106 Agreement relating to travel plan and highway works at the 24th August 2011 Planning Committee (UTT/2208/10/REN).
- 6.8 Outline application (including layout, scale and access) for mixed use redevelopment to comprise: Class B1 offices, Class B1/B2/B8 Industrial, Storage and Distribution and Trade Park, Retail Warehouse Park and associated landscaping, access and internal roads and cycle/footways, including the provision of access to existing and proposed adjoining uses. Demolition of all existing buildings - Approved 19 December 2007(UTT/1788/07/OP).
- 6.9 Other relevant planning applications relate to the adjacent sites for a Heritage Quest Centre proposed to store museum artefacts and resource base for study, located to the north-west of the application site (UTT/1709/05/DC) and the alternative site to the south-east of the application site (UTT/0098/10/DC).

- 6.10 UTT/1451/09/FUL was the first planning application that Sainsbury's submitted for a new retail food store with a café, teller machines and the creation of a car park and service yard. The store would have a gross internal area of 6322sqm, with 3766sqm net retail floorspace. A total of 382 car parking spaces are proposed including 19 disabled spaces and 15 parent and child spaces. In addition 74 cycle hoops are proposed giving 148 cycle spaces. This was refused on the grounds of *"The proposal would have a significant adverse impact on the turnover of the main town centre anchor Waitrose store. This loss of retail turnover is likely to result in Waitrose abandoning plans to commit to expansion plans for its town centre food store. This, together with the loss of footfall to the town centre associated with linked trips would result in a significant adverse impact on the town centre affecting the vitality and viability of the centre. As a direct result of this significant adverse impact this would be likely to result in an impact on the range and quality of the comparison and convenience offer in the town centre. This would be contrary to national policy set out in PPS4."*
- 6.11 Planning permission was granted for the "Erection of new petrol filling station and customer kiosk, new landscaping, access and associated works" (LPA reference UTT/0788/11/FUL) at the Planning Committee on 16 October 2011. This is the same committee at which planning application UTT/0787/11/FUL was considered (after the appeal against non-determination was made).
- 6.12 With regards to UTT/0787/11/FUL this related to the "Erection of new foodstore (use class A1) including cafe, automatic teller machines, surface level car parking, new access roundabout and highways works, landscaping servicing and associated works". This application was 20% smaller than the previous refused application UTT/1451/09/FUL. It was resolved that *"Had the application not been appeal under the grounds of non-determination it would be recommended for Refusal for the following reasons: The proposal would have a significant adverse impact on the turnover of the main town centre anchor Waitrose store. This loss of retail turnover is likely to result in Waitrose abandoning plans to commit to expansion plans for its town centre foodstore. This, together with the loss of footfall to the town centre associated with linked trips would result in a significant adverse impact on the town centre affecting the vitality and viability of the centre. As a direct result of this significant adverse impact this would be likely to result in an impact on the range and quality of the comparison and convenience offer in the town centre. This would be contrary to national policy set out in PPS4."*

7. POLICIES

National Policies

- 7.1 - National Planning Policy Framework

Uttlesford Local Plan (2005)

- 7.1
- Policy SW1 - Town Centre
 - Policy SW5 - Thaxted Road Employment Site
 - Policy SW6 – Safeguarding of Existing Employment Area
 - Policy S1 – Development limits for the Main Urban Areas
 - Policy S7 - Countryside
 - Policy E2 – Safeguarding Employment Land
 - Policy RS1 - Access to Retailing and Services
 - Policy RS2 – Town and Local Centres
 - Policy GEN1 – Access
 - Policy GEN2 – Design

- Policy GEN3 – Flood Protection
- Policy GEN7 - Nature Conservation
- Policy GEN8 – Vehicle Parking Standards
- Policy ENV3 - Open Spaces and Trees
- Policy ENV12 – Protection of Water Resources
- Policy ENV13 – Exposure to Poor Air Quality
- Policy ENV14 – Contaminated Land
- Policy ENV15 - Renewable Energy

- **Uttlesford Retail Capacity Study**

8. SAFFRON WALDEN TOWN COUNCIL

- 8.1 The Committee objects to this change of use application (from retail to non-Retail) on the grounds that according to the supporting documents in the emerging Local Plan, Saffron Walden needs more Retail Space not less, and that this application would thus be contrary to the Local Plan.

9. CONSULTATIONS

Cadent

- 9.1 The proposal as currently specified is in proximity to Cadent and/or National Grid apparatus, which may impact, and possibly prevent, your proposed activities for safety and/or legal reasons.

BAA

- 9.2 The Safeguarding Authority for Stansted Airport has assessed this proposal and potential to conflict aerodrome safeguarding criteria. We have no safeguarding objections to the proposal.

NATS

- 9.3 The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria. Accordingly, NATS (En Route) Public Limited Company ("NERL") has no safeguarding objection to the proposal. However, please be aware that this response applies specifically to the above consultation and only reflects the position of NATS (that is responsible for the management of en route air traffic) based on the information supplied at the time of this application. This letter does not provide any indication of the position of any other party, whether they be an airport, airspace user or otherwise. It remains your responsibility to ensure that all the appropriate consultees are properly consulted. If any changes are proposed to the information supplied to NATS in regard to this application which become the basis of a revised, amended or further application for approval, then as a statutory consultee NERL requires that it be further consulted on any such changes prior to any planning permission or any consent being granted.

Environmental Health

- 9.4 The findings of the air quality review dated 11 May 2018 carried out by WSP are accepted, and no objections on grounds of air quality are raised.

However, traffic from the development will impact on Saffron Walden Air Quality Management Area, and provision of charging facilities at the parking spaces to support

the use of low emission vehicles should be encouraged.

In accordance with saved policy GEN1 Access, infrastructure to encourage non car travel should be provided. It is not clear from the site plan whether cycle hoops are provided close to the parking spaces, if they are not, a condition to require their provision is recommended.

ECC Highways

- 9.5 The transport assessment shows that the change of used from A1 to D2 is likely to generate a slightly higher number of trips, (on average 14 extra trips in the evening peak). This increase will have a very limited impact on the highway, especially when making the reasonable assumption that some will be diverted trips that were already on the highway (for example commuter trips home). The transport assessment does not mention parking provision, and the Essex Parking Standards do require more spaces for a Class D2 in comparison to A1. However these are maximum standards and given that there is mixed use on the site and the different uses are likely to have peak use at different times it is considered that the parking provision is adequate. In addition the layout of the site means that if there were queuing for parking it is likely to be within the site and unlikely to have a detrimental impact on the highway. Therefore from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority.

10. REPRESENTATIONS

The neighbouring properties have been consulted of the planning application and the scheme has been advertised in the local press and on site. No letters have been received.

The scheme has been re-advertised as a result of amended description which re-categorises the application as a major. (consultation expiry date 2 August 2018)

11. APPRAISAL

The issues to consider in the determination of the application are:

- A Principle & Impact;**
- B Design & Amenity;**
- C Highways & AQMA;**
- D Impact on biodiversity;**

A Principle & Impact

- 11.1 The application site, other than an area between the main site and Thaxted Road has been previously developed and is predominately classified as 'brownfield' land which in principle would be acceptable to re-develop, in accordance with local plan Policy S1. The proposal involves the reuse of the former Granite site, Highways depot and Civic Amenity Site and is currently an area which forms an unattractive entrance to the town. This is mainly due to the abandoned buildings and the spoil piles from the construction of the new access road to the new Civic Amenity and Recycling Centre (CARC) and Highways Salt Depot. The area has begun to be transformed following the implementation of the first phase of the approved development under UTT/13/0268/FUL, the Aldi store.

- 11.2 Planning permission was recently granted to amend the approved scheme through the amendment to the floorspace layout of the units as identified in Section 3 above fundamentally;
- The garden centre is proposed to be reduced by 464 m² to 650m²;
 - Retail Unit 1 has been enlarged by 92m² to 557m² and has been re-sited slightly northwards;
 - The café together with its external seating area has been re-sited to be adjacent to Unit 1 and proposed to increase by 5m² to 167m²;
 - Unit 2 is proposed to increase by 185m² to 2,043m²;
 - Unit 3 would remain the same at 650m²;
 - Also a slight amendment to the parking layout;
- 11.3 This was granted planning permission and the principle of the development has been previously discussed and accepted as part of the original application and the history of previous similar planning applications on this site. This application now seeks to amend the use of one of the proposed units to provide a gym.
- 11.4 Little has materially changed since the determination for the original application in 2013 or the 2017 application. The previous draft emerging Local Plan has since been withdrawn and there is a new emerging draft local plan which is at its early stages in the process. Due to the early stages of the draft local plans both past and present these have little weight to the determination of the application.
- 11.5 However, as a result of the current local plan work a revised Retail Capacity Study on behalf of the Council has been undertaken by Savills in 2016. This forms part of the evidence base for the emerging Local Plan, which is currently being prepared by the Council. The application site has been identified as a committed site within the retail study.
- 11.6 The updated retail capacity study identified *“little leakage to competing convenience shopping floorspace outside of the district and we, therefore, conclude that, taking into account the physical provision of shopping facilities, particularly main food stores in the respective towns, Uttlesford is relatively well served in terms of main food shopping facilities.”* The Study also stated that there is *“Limited convenience capacity arises in Saffron Walden by 2021. By the end of the plan period in 2033 this will have risen to £28.04m which would support for a small to medium sized food store.”* Equally the study shows that whilst there is a deficient identified in 2016 there would be expenditure capacity in comparison goods from 2021 onwards. It is recommended that the capacity is met within the town centre first but the study acknowledges that this is likely to be limited due to potential sites. However, there is no policy protection against the loss of retail floorspace outside town centre locations.
- 11.7 The proposed change of use to Use Class D2 includes the following uses in that category **Assembly and leisure** - Cinemas, music and concert halls, bingo and dance halls (but not night clubs), swimming baths, skating rinks, gymnasiums or area for indoor or outdoor sports and recreations (except for motor sports, or where firearms are used). However, it has been specified within the application submission that the change of use is clearly for a gym only.
- 11.8 The unit in question is 650m² which is the second smallest unit on the site. Whilst the proposed use is a use associated within a Town Centre the size of the unit falls below

the thresholds outlined within the NPPF for a sequential test, nonetheless a sequential test was undertaken as part of the original applications.

11.9 The supporting Planning Statement outlined “*There would be minimal overlap with the Town Centre, with the only gym facility comprising of the Reshape Fitness and Beauty Clinic, which contains a limited gymnasium area. The majority of gyms in Saffron Walden are located outside of the Town Centre and therefore are not protected in policy terms. It is therefore clear that gym facilities provide a very limited contribution to the Town Centre’s overall vitality and viability, which is dependent upon its retail and service offer, which will be unaffected by the proposed development.*”

11.10 Due to the location of the site and the secured committed development the proposal is not in conflict in regards to the sequential test, in any event there are no other sequentially preferable sites for the proposed development. It can therefore be concluded that the proposed development continues to comply with the NPPF paragraph 24- 27 requirements and will not result in a significant adverse impact on Saffron Walden Town Centre.

B Design & Amenity

11.11 Local Plan Policy GEN2 seeks for quality design, ensuring that development is compatible in scale, form, layout, appearance and materials. The policies aim to protect and enhance the quality, character and amenity value of the countryside and urban areas as a whole seeking high quality design.

11.12 It has been confirmed within the application submission that there would be no alterations to the external appearance of the unit, or the layout of the wider scheme approved under the previous applications. Therefore, the proposed development accords with Policy GEN2 on this respect subject to conditions.

C Highways

Parking & Access

11.13 Local Plan Policy GEN8 requires the parking provision to be in accordance with current adopted standards, the parking standards are outlined in ECC Parking Standards (January 2009). The Council’s car parking standard (ECC Parking Standards 2009) was adopted by the Council January 2010 post the submission of the previous applications.

11.14 The standards requires;

- 1 car space per 14sqm for food stores and 1 car space per 20sqm (maximum),
- 1 cycle space per 400sqm for staff and 1 cycle space per 400sqm for customers (minimum),
- 1 plus 1 space per 20 car spaces for the 1st 100 spaces, and then
- 1 space per 30 over 100 spaces for powered two wheelers (minimum) and
- Disabled parking bays 4 plus 4% of total capacity
- Also, for gyms 1 space per 10 sqm of public area is required (maximum), and
- 10 cycle spaces plus 1 space per 10 vehicle space

11.15 The recently approved scheme would provide 244 car parking spaces, 14 disabled spaces, 30 cycle spaces and 11 motorcycle bays. A gym requires slightly more parking

spaces, however, this is a maximum and no floor layout has been provided as part of the application in terms of level of public space within the unit. As a result and due to the nature of the use and different usage time typical of gyms verses retail units no objection has been raised by ECC Highways. This therefore complies with Local Plan Policy GEN8 and the Essex Parking Standards (2009).

- 11.16 The adopted standards has increased the required sizes of parking bays in line with the increased sized of modern vehicles seeking parking bays of 2.9m x 5.5m plus 1m either side for disabled bays. The proposal would continue to provide parking bays of 2.5m x 5m which would be below the required standard sizes. The disabled parking bays however comply. No justification has been submitted as part of the application regarding the parking bay sizes however similar size bays have been deemed as acceptable on other applications on this site including the extant consent UTT/13/0268/FUL and UTT/17/1782/FUL.
- 11.17 Travel Plans are a means of encouraging access to sites by means other than the private car. A Travel Plan has not been submitted with the application detailing the initiatives proposed to encourage staff members to seek alternative means of travel to work. It should be noted that a travel plan formed part of a Section 106 Agreement on the previous extant application. Therefore, should planning permission be granted the content of the Section 106 Agreement which formed part of application UTT/2208/10/REN, UTT/13/0268/FUL and UTT/17/1782/FUL should be transferred over.
- 11.18 An accessible ramp designed to be DDA (Disability Discrimination Act) compliant has been implemented as part of Phase 1 of the development. Zebra crossings and pedestrian link ways continue to be incorporated within the proposed development. This is in accordance with sections (c) and (d) of Local Plan Policy GEN1.

Highway Impact and AQMA

- 11.19 Local plan policy GEN1 states “*development will only be permitted if it meets all of the following criteria;*
a) Access to the main road network must be capable of carrying the traffic generated by the development safely.
b) The traffic generated by the development must be capable of being accommodated on the surrounding transport network.
c) The design of the site must not compromise road safety and must take account of the needs of cyclists, pedestrians, public transport users, horse riders and people whose mobility is impaired.
d) It must be designed to meet the needs of people with disabilities if it is development to which the general public expect to have access.
e) The development encourages movement by means other than driving a car.”
- 11.20 Local Plan Policy GEN1 seeks sustainable modes of transport this is reflected within National Planning Policy Framework. A Transport Assessment was submitted as part of the original application and assessed by ECC Highways Authority.
- 11.21 Previously no Highway objections were raised to the approved scheme subject to transfer of previous S106 agreement Heads of Terms with regards to bus stops, and street lighting.
- 11.22 The impact of the proposed development at the signalised junction with Radwinter Road/Thaxted Road was previously assessed. An updated Transport Assessment has been submitted as part of the applications.

11.23 The Transport Assessment stated;

"The resulting traffic generation for a gym use at Unit 3 suggests a two-way traffic flow in the order of 26 to 36 vehicles during the weekday PM peak hour. This is higher than the 12 two-way vehicles associated with the non-food retail use as approved, but not significantly so. Given the time of day it is reasonable to assume that a high proportion of these trips are being made as part of a journey home from work although it is likely to be a minority of visitors that would have been travelling along the Thaxted Road in any event.

TRICS does not offer any Saturday trip rates for a gym use but it is reasonable to assume that the busiest hour in the weekday afternoon/ evening period is representative of the hourly flows experienced at the weekend. Hence the 26 to 36 two-way vehicle movements for the gym would compare with the 36 two-way vehicle movements associated with the non-food retail use of Unit 3 as approved.

Hence in summary there is predicted to be a slight increase in overall traffic movements to and from the development during the weekday PM peak period but little or no change in conditions on a Saturday."

11.24 The updated Transport Assessment submitted as part of this application highlights that the proposed change of use would result in a small increase to the vehicle movements. No objections have been raised by ECC Highways to this current scheme. They have stated *"The transport assessment shows that the change of use from A1 to D2 is likely to generate a slightly higher number of trips, (on average 14 extra trips in the evening peak). This increase will have a very limited impact on the highway, especially when making the reasonable assumption that some will be diverted trips that were already on the highway (for example commuter trips home). The transport assessment does not mention parking provision, and the Essex Parking Standards do require more spaces for a Class D2 in comparison to A1. However these are maximum standards and given that there is mixed use on the site and the different uses are likely to have peak use at different times it is considered that the parking provision is adequate. In addition the layout of the site means that if there were queuing for parking it is likely to be within the site and unlikely to have a detrimental impact on the highway. Therefore from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority."* The application is therefore in accordance with Local Plan Policy GEN1.

11.25 Local Plan Policy ENV13 seeks to prevent and protect against air pollution. There is one large Air Quality Management Area (AQMA) within Saffron Walden. The principle source of NO2 emissions is vehicle exhausts.

11.26 The Council's Environmental Health Officer had raised no objection to the original application (UTT/13/0268/FUL) or the more recent application UTT/17/1782/FUL subject to relevant mitigation condition being imposed should planning permission be granted.

11.27 An updated report has now been submitted as part of this application which stated *"given the small increase in vehicle movements that the proposed change of use will result in, and the fact that the baseline air quality situation has not significantly changed, it is considered that the effect of the proposed change of use on local air quality will be negligible."*

11.28 It should be noted that whilst this current application would see a slight increase in the

- number of vehicle movements the previous application UTT17/1782/FUL saw the reduced vehicle flow (by 80 movements) would have a reduced impact upon air quality than that of the extant development.
- 11.29 The EHO has been re-consulted regarding the updated AQA and stated *“The findings of the air quality review dated 11 May 2018 carried out by WSP are accepted, and no objections on grounds of air quality are raised. However, traffic from the development will impact on Saffron Walden Air Quality Management Area, and provision of charging facilities at the parking spaces to support the use of low emission vehicles should be encouraged. In accordance with saved policy GEN1 Access, infrastructure to encourage non car travel should be provided. It is not clear from the site plan whether cycle hoops are provided close to the parking spaces, if they are not, a condition to require their provision is recommended.”*
- 11.30 In relation to improving air quality this was addressed as part of the previous conditions and mitigations which were sought. Therefore, should this application be granted the relevant conditions should be transferred over. The scheme is therefore in accordance with Local Plan Policy ENV13.

D Biodiversity

- 11.31 Local Plan Policy GEN7 for nature conservation seeks that development that would have harmful effects upon wildlife or geological features will not be permitted unless the need for development outweighs the harm. It also seeks that a conservation survey be sought for sites that are likely to be ecologically sensitive with associated mitigation measures.
- 11.32 In addition to biodiversity and protected species being a material planning consideration, there are statutory duties imposed on local planning authorities. Section 40(1) of the Natural Environment and Rural Communities Act 2006 states *“Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity”*. This includes local authorities carrying out their consideration of planning applications. Similar requirements are set out in Regulation 3(4) of the Conservation (Natural Habitats &c) Regulations 1994, Section 74 of the Countryside and Rights of Way Act 2000 and Regulation 9(5) of the Conservation of Habitats and Species Regulations 2010. Recent case law has established that local planning authorities have a requirement to consider whether the development proposals would be likely to offend Article 12(1), by say causing the disturbance of a species with which that Article is concerned, it must consider the likelihood of a licence being granted.
- 11.33 The tests for granting a licence are required to apply the 3 tests set out in Regulation 53 of the Habitats Regulations 2010. These tests are:
- 11.34 The consented operation must be for *“preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment”*; and
- 11.35 There must be *“no satisfactory alternative”*; and
- 11.36 The action authorised *“will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range”*.
- 11.37 Various survey works has been undertaken on the site and the associated ecological conditions attached to the extant consent have been fully discharged. As a result ECC

Ecology and Natural England have not objected to the previous applications and this change of use application would have no impact upon this matter. Therefore, the scheme is considered to accord with Local Plan Policy GEN7.

12. CONCLUSION

12.1 The following is a summary of the main reasons for the recommendation:

- A It is concluded that the principle of the change of use is acceptable and would not have an unacceptable impact upon the town centre and would accord with the draft plan supporting studies, and the NPPF, subject to conditions.
- B The design of the units the size, heights, design and choice of modern materials remain unchanged and therefore acceptable, consistent and in keeping with its surroundings, in accordance with Local Plan Policy GEN2.
- C The proposed scheme in terms of car parking is considered to be generally acceptable and would provide an adequate balance. With regards to the size of the parking bays based on previous Highway Authority recommendations, previous approaches to similar schemes on this site and the fact that the previous planning application was not refused on car parking standards this part of the scheme is generally considered to be acceptable. Previous S106 Agreement relating to Highway improvements and Travel Plan forming part of UTT/13/0268/FUL and UTT/17/1782/FUL should be transferred over this application should planning permission be granted.

The increase in vehicle movement numbers is minimal and would have minimum impact upon the highway network. No objections have been raised by ECC Highways to this current scheme. The application is therefore in accordance with Local Plan Policy GEN1.

No objection has been raised regarding air quality subject to mitigation conditions should planning permission be granted. The scheme is therefore in accordance with Local Plan Policy ENV13.

- D Various survey works have been undertaken on the application site and the associated ecological conditions attached to the extant consent have been fully discharged. As a result ECC Ecology and Natural England have not objected to the previous application, and this change of use application has no impact upon this matter. Therefore, the scheme is considered to accord with Local Plan Policy GEN7.

RECOMMENDATION - CONDITIONAL APPROVAL SUBJECT TO S106 LEGAL OBLIGATION

- (I) **The applicant be informed that the committee would be minded to refuse planning permission for the reasons set out in paragraph (III) unless by the 6 September 2018 the freehold owner enters into a binding obligation to cover the matters set out below under Section 106 of the Town and Country Planning Act 1990, as amended by the Head of Legal Services Compensation Act 1991, securing the following:**

- (i) **Submission of travel plan**

- (ii) **Payment of monies relating to travel plan monitoring**
- (iii) **Highway works**
- (iv) **Pay Councils reasonable costs**

(II) In the event of such an obligation being made, the Assistant Director of Planning shall be authorised to grant permission subject to the conditions set out below:

(III) If the freehold owner shall fail to enter into such an obligation, the Assistant Director Planning shall be authorised to refuse permission in his discretion at any time thereafter for the following reason:

- (i) **Submission of travel plan**
- (ii) **Payment of monies relating to travel plan monitoring**
- (iii) **Highway works**

Conditions:

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The developer will provide a BREEAM post-construction assessment of the rating of the as-built development within four weeks following the completion of each phase, also carried out by an accredited assessor, unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of the promotion of sustainable forms of development and construction Policy GEN2 and ENV15 of the Uttlesford Local Plan (adopted 2005).

- 3 The approved landscaping details shall be implemented in the first planting and seeding season following the first occupation of this phase of buildings, the completion of the development, or in agreed phases whichever is the sooner, and any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

REASON: To ensure that the long-term health and species rich nature of the existing landscape features within and adjoining the site are consolidated and maintained free of invasive or alien species in accordance with the policy for nature conservation in the Local Plan, Policy GEN2, ENV3 and GEN7 of the Uttlesford Local Plan (adopted 2005).

- 4 Notwithstanding the plans hereby approved and the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or reenacting that Order with or without modification), no extensions or alterations, including installation of mezzanine floors, roofing, open yards or sub-division shall be carried out (other than those expressly authorised by this or any other express permission) on any part of the site, whether externally or internally, without the prior

written permission of the local planning authority.

REASON: Extensions would result in the loss of parking spaces and servicing areas, resulting in a detrimental impact on the layout of the site and to control the use of the units without the relevant retail tests so as to not cause unacceptable harm to the vitality and viability of the town centre, in accordance Policy GEN1, GEN2 and GEN8 of the Uttlesford Local Plan (adopted 2005) and the NPPF.

- 5 Notwithstanding plans hereby approved or the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or reenacting that Order with or without modification) no other forms of fences, gates or walls shall be constructed within the site or on the site boundaries without the prior written permission of the local planning authority.

REASON: To ensure the development is in accordance with the character of its surroundings, in accordance with Policy GEN2 of the Uttlesford Local Plan (adopted 2005).

- 6 Unit 2 hereby permitted shall be occupied for the stated purpose and for no other purpose (including any other purpose within Classes A1) of the Schedule of the Town and Country Planning (Use Classes Order) 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). The use of these shall be limited to the sale of DIY goods, furniture, floor coverings, leisure and garden products, motor accessories, electrical, homewares and pets/pet related products and ancillary veterinary surgeries and animal grooming, other non-bulky goods, no more than 10% or 163 sq m (whichever is greater) of the net sales floorspace for the sale of convenience or food, no more than 5% or 82 sq m (whichever is greater) of the net sales floorspace for the sale of toiletries but not including fashion wear items or fashion foot wear.

REASON: To define the scope of the permission and to specify the sale of goods so as to not cause unacceptable harm to the vitality and viability of the town centre, in accordance with NPPF.

- 7 Unit 1 (excluding the mezzanine), and garden centre hereby permitted shall be used for the stated purpose and for no other purpose (including any other purpose within Classes A1) of the Schedule of the Town and Country Planning (Use Classes Order) 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). The use of these shall be limited to the sale of DIY goods, furniture, floor coverings, leisure and garden products, motor accessories, electrical, homewares and pets/pet related products and ancillary veterinary surgeries and animal grooming, other non-food bulky goods but not including fashion wear items or fashion foot wear.

REASON: To define the scope of the permission and to specify the sale of goods so as to not cause unacceptable harm to the vitality and viability of the town centre, in accordance with NPPF.

- 8 The mezzanine floorspace of 269 sq m in Unit 1 shall be used for ancillary purposes extending to veterinary surgery and animal grooming and not for the sale of retail goods within Class A1 of the Town and Country Planning (Use Classes) Order 1987 (or any other Order amending, revoking and re-enacting that Order). There shall be no mezzanine floorspace in Unit 2.

REASON: To define the scope of the permission and to specify the sale of goods so as

to not cause unacceptable harm to the vitality and viability of the town centre, in accordance with NPPF.

- 9 Other than during the construction of the development no processes shall be carried out or power tools, equipment, machinery or plant of any kind shall be used at any time anywhere on the site except within the buildings hereby permitted. REASON: To protect the amenities of the occupiers of adjoining properties, in accordance with Policy GEN2 and GEN4 of the Uttlesford Local Plan (adopted 2005).

- 10 Other than during the construction of the development, with the exception of the garden centre, there shall be no outdoor storage of any materials, goods, equipment, plant or machinery of any description on any part of the site without the written consent of the Local Planning Authority.

REASON: To prevent harm to the character and amenity of the area, in accordance with Policy GEN2 of the Uttlesford Local Plan (adopted 2005).

- 11 Details regarding the closing off of the existing access to the south east of the main access road shall be implemented in accordance with the details approved under Discharge of Condition application UTT/18/0437/DOC.

REASON: In the interests of highway safety, in accordance with Policy GEN1 of the Uttlesford Local Plan (adopted 2005).

- 12 Detail regarding the estate roads and footpaths (including layout, levels, gradients, surfacing, and means of surface water drainage shall be implemented in accordance with the details approved under Discharge of Condition application UTT/18/0437/DOC.

REASON: In the interests of road safety, in accordance with Policy GEN1 of the Uttlesford Local Plan (adopted 2005).

- 13 Details relating to the surface water drainage strategy for the site shall be implemented in accordance with the details approved under Discharge of Condition application UTT/18/0437/DOC.

REASON: To prevent the increased risk of flooding, both on and off site, in accordance with Policy GEN3 of the Uttlesford Local Plan (adopted 2005)

- 14 The café unit hereby permitted shall be used for Class A3 restaurant and café use and for no other purposes within the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

REASON: To control the use of the café unit from being used as Class A1 retail without the relevant retail tests so as to not cause unacceptable harm to the vitality and viability of the town centre, in accordance with the NPPF.

- 15 The remediation scheme for each phase shall be implemented in accordance with the approved timetable of works and in accordance with the details approved under Discharge of Condition application UTT/18/0437/DOC.

Within 2 months of the completion of measures identified in the approved remediation scheme, a validation report (that demonstrates the effectiveness of the remediation carried out) must be submitted to and approved by the Local Planning Authority.

REASON: In the interests of safety, residential amenity and proper planning of the area, in accordance with Policies GEN2, GEN4 and ENV14 of the Uttlesford Local Plan (adopted 2005).

- 16 In the event that contamination that was not previously identified is found at any time after the development of any phase has begun, development must be halted on that part of the site affected by the unexpected contamination. The contamination must be reported in writing within 3 days to the Local Planning Authority. An assessment must be undertaken in accordance with the requirements of condition 15 of UTT/17/1782/FUL, and where remediation is necessary a remediation scheme, together with a timetable for its implementation, must be submitted to and approved in writing by the Local Planning Authority in accordance with the requirements of condition 16 of UTT/17/1782/FUL. The measures in the approved remediation scheme must then be implemented in accordance with the approved timetable. Following completion of measures identified in the approved remediation scheme a validation report must be submitted to and approved in writing by the Local Planning Authority in accordance with condition 17.

REASON: In the interests of safety, residential amenity and proper planning of the area, in accordance with Policies GEN2, GEN4 and ENV14 of the Uttlesford Local Plan (adopted 2005).

- 17 All flood risk management measures identified in the approved Flood Risk Assessment (Revision C, dated 23 November 2012) shall be incorporated into each phase of the development prior to the occupation or first use of that phase of the development hereby permitted.

REASON: To reduce the risk and effect of flooding to the development and ensure neighbouring property is not put at greater risk as a result of the development, in accordance with Policy GEN3 of the Uttlesford Local Plan (adopted 2005).

- 18 Notwithstanding the plans hereby approved and the provisions of the Town & Country Planning (Use Classes) Order 1987 (or any other Order amending, revoking and reenacting that Order) the foodstore premises shall be used for a Limited Assortment Discounter retail store and for no other purpose within Class A1. The Limited Assortment Discounter store hereby approved is defined as a store which carries a limited range of grocery products and base their retail offer on selling these products at very competitive prices. This means that the number of product lines (stock-keeping units) available within the store at any one time should not exceed two thousand lines.

REASON: To ensure that use as approved reflects the identified retail requirements and to prevent unacceptable impact upon the vitality and viability of the town centre in accordance with NPPF.

- 19 The net sales floorspace of the foodstore shall not exceed 1,125 sq m, and the sale of convenience goods shall not exceed 90% of the net floorspace and the sale of comparison goods shall not exceed 20% of the net floorspace.

REASON: The restricted 20% in comparison goods is to allow for flexibility in the selling of seasonal goods and arrangement of floorspace and to ensure that use as approved reflects the identified retail requirements and to prevent unacceptable impact upon the vitality and viability of the town centre in accordance with NPPF.

- 20 The Cycle / Powered Two wheeler parking shall be provided in accordance with the

submitted plans 14467-102 Rev Q and 14467-110 Rev A. prior to occupation and retained thereafter for that purpose.

REASON: To ensure appropriate cycle / powered two wheeler parking is provided in the interest of highway safety and amenity in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011 and in accordance with Policy GEN1 of the Uttlesford Local Plan (adopted 2005).

- 21 The road layout, crossing points, turning heads and vehicle parking as indicated on drawing number 14467-102 Rev Q to be provided before first occupation of the site and retained thereafter for that purpose.

REASON: To ensure adequate facilities for all movement within the site and to ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011 and in accordance with Policy GEN1 of the Uttlesford Local Plan (adopted 2005).

- 22 Three vehicle electric charging points shall be provided, fully wired and connected, ready to use before first occupation of the site and retained thereafter.

REASON: In the light of the additional parking being provided this will facilitate sustainable modes of transport in a development that will impact on an Air Quality Management Area and in accordance with the National Planning Policy Framework (para35) that 'Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, developments should be located and designed where practical to [...] incorporate facilities for charging plug-in and other ultra-low emission vehicles'. This is in accordance with Policies GEN1 and ENV13 of the Uttlesford Local Plan (adopted 2005).

- 23 Following completion of the construction of the retaining structure, a further comprehensive survey of PROW Byway 18 (Saffron Walden) from its junction with Thaxted Road to a point 50m north-east of the north-eastern boundary shall be complete. The results of the survey and any identified damage/repair work shall be submitted to and approved in writing by the Local Planning Authority. Any repair works identified in the 'after' survey shall be carried out within 3 months of the completion of the construction of the dwellings to a programme to be agreed with the Local Planning Authority.

REASON: In the interests of highway safety and retaining the amenity of the byway, should the construction of the development impact on it, in accordance with Local Plan Policy GEN1 of the Uttlesford Local Plan (adopted 2005)

- 24 The retaining structure proposed along the Byway 18 (Saffron Walden) shall be implemented in accordance with the details approved under Discharge of Condition application UTT/18/0437/DOC.

REASON: In the interests of safety given the proximity of the structure to the PROW Byway 18 (Saffron Walden), in accordance with Local Plan Policy GEN1 of the Uttlesford Local Plan (adopted 2005).

- 25 Details of the new cycle/pedestrian link shall be implemented prior to the first use of the buildings in accordance with the details approved under Discharge of Condition

application UTT/18/0437/DOC.

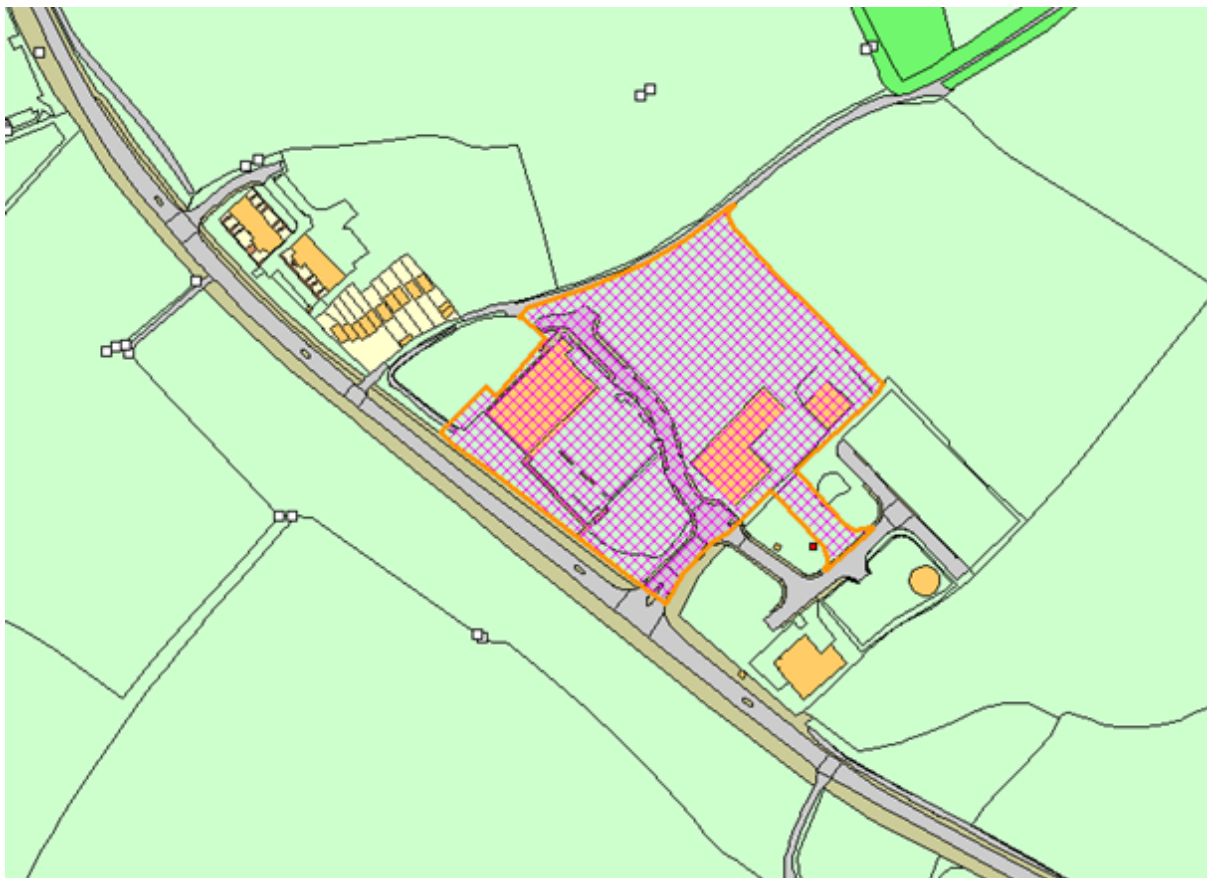
REASON: In the interests of accessibility, in accordance with Policy GEN1 of the Uttlesford Local Plan (adopted 2005).

- 26 Unit 3 hereby permitted shall be used for the stated purpose and for no other purpose (including any other purpose within Classes D2) of the Schedule of the Town and Country Planning (Use Classes Order) 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

REASON: To define the scope of the permission and so as to not cause unacceptable harm to the vitality and viability of the town centre or the surrounding locality, in accordance with NPPF.

Application: UTT/18/1299/FUL

Address: Site At Thaxted Road Former Civic Amenity And Granite Site,
Thaxted Road, Saffron Walden



Organisation: Uttlesford District Council

Department: Planning

Date: 20 July 2018