

**COMMITTEE:** DEVELOPMENT CONTROL

**DATE:** 27TH APRIL 2005

**SUBJECT:** GIPSY LANE, UNIT 4 LUTON RETAIL PARK.  
VARIATION OF CONDITION 8 OF PERMISSION  
L/17584/A/0 DATED 9TH MARCH 1990 TO ALLOW  
EXTRA FLOOR SPACE IN THE FORM OF A  
MEZZANINE FLOOR. (APPLICANT: HALFORDS  
LIMITED) (APPLICATION NO. 05/00201/VARCON).

**REPORT BY:** DEVELOPMENT CONTROL MANAGER

**CONTACT OFFICER:** DAVID HALL 546317

**IMPLICATIONS:**

LEGAL	COMMUNITY SAFETY
EQUALITIES	ENVIRONMENT
FINANCIAL	CONSULTATIONS
STAFFING	OTHER

**WARDS AFFECTED:** SOUTH

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### **PURPOSE**

1. To inform Members of the development proposed and to seek their decision in respect of the planning application submitted.

### **RECOMMENDATION(S)**

2. It is recommended that:-

(a) Planning permission be granted subject to the following conditions:-

- (01) No goods, waste or other materials shall be stored outside the buildings in the open, other than by agreement obtained in writing from the Local Planning Authority, and the site shall be maintained in a clean and tidy condition at all times.

*Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.*

- (02) Satisfactory access to the site for pedestrians, shall be provided at the Kimpton Road end of the site.

*Reason: In the interests of highway and pedestrian safety.*

- (03) Provision shall be made within the site for the accommodation of bus lay-bys and bus stops for the picking up and setting down of passengers.

*Reason: To enable the Local Planning Authority to exercise proper control over development in the interests of safeguarding the amenities of the surrounding area.*

- (04) No portion of the current or proposed Civil Aviation Authority public safety zone shall be used for either buildings or car parking.

*Reason: To enable the Local Planning Authority to exercise proper control over development in the interests of safeguarding the amenities of the surrounding area.*

- (05) The gross retail floorspace of the development shall not exceed 16524 square metres in the first instance and any subsequent extensions to the gross retail floorspace shall be accompanied by an appropriate increase in customer car parking in accordance with the Borough Council's car parking standards.

*Reason: To ensure a satisfactory standard of development and to safe guard the amenities of the surrounding area.*

- (06) No external lighting shall be installed to the parking/service area(s) or to the perimeter of the building(s) hereby approved, other than in accordance with a scheme to be submitted to and approved by the Local Planning Authority prior to the installation of any external lighting on the site.

*Reason: To enable the Local Planning Authority to exercise proper control over lighting installations having regard to the close proximity of Luton International Airport.*

- (b) In respect of the Planning Agreement,

Clause 2 (ii) be amended to restrict the total gross floorspace on the site to a figure not exceeding sixteen thousand five hundred and twenty four square metres.

### **BACKGROUND**

3. A formal request for the variation of the Section 52 Agreement has been received in respect of the above premises, currently occupied by Halfords Limited.

4. The original planning consent for the retail park was approved in 1989 at a time when the Council was under great pressure to permit out of centre shopping developments. The grant of permission in this case enabled the Council to resist others but, nevertheless, raised concerns regarding the potential impact on the viability of the town centre at that time. The permission was, therefore, made subject to a Section 52 (S52) Agreement limiting the goods which could be sold, predominantly to bulky goods e.g. carpets and furniture, which are more appropriately located out of centre, but also included toys, car accessories and DIY. The Agreement and the conditions attached to the planning permission also limited the total floorspace that could be used for retail purposes.

5. This general approach has proved successful. The development was occupied by retailers in accordance with the restrictions imposed and the impact on the town centre was minimised.

## **REPORT**

### **Planning History**

6. An outline planning consent for the development of land – retail stores D.I.Y., carpets, furniture, toys, electrical goods and motor accessories was approved subject to a Section 52 Agreement on 6th April 1989.

7. A subsequent full planning permission for the development was then granted, again subject to a Section 52 Agreement, on 9th March 1990. In both cases, the planning permission included a condition restricting the total amount of floorspace to be constructed and those restrictions were repeated in the accompanying Section 52 Agreement.

8. Most recently, in February 2004 Members allowed variations to the Section 52 Agreement and Condition 8 to provide mezzanine floorspace in units 1a and 2b.

### **The Proposal**

9. The application seeks to vary Condition 08 of the permission to facilitate the construction of a mezzanine floor, increasing the floorspace within the building by 390 square metres, to provide a total of 1845 sq. metres of retail floorspace in unit 4.

10. Condition 08 reads: -

“The gross retail floorspace of buildings in the development, which floorspace shall include all mezzanine and outdoor retail areas but shall exclude the separate fast food outlet, shall not exceed 16,236 sq. metres in the first instance and subsequent extensions to the gross retail floorspace shall be accompanied by an increase in customer car parking in accordance with the Borough Council’s car parking standards.”

### **Planning Policies**

11. The application site is located within a designated out-of-centre shopping policy area identified in the Borough of Luton Local Plan. Policy S1 of the Plan is relevant, and

the implications it has for the current application are addressed under the 'Main Considerations' below.

12. Variations of formal Planning Agreements entered into in respect of retail developments are dealt with as part of Policy S3 of the Plan which seeks to prevent new shopping development outside the town centre shopping areas unless the opportunity for a development within the town centre shopping areas has been fully explored, no site is available and the vitality and viability of existing centres is not threatened, or it lies within an existing district or local centre as defined in Policy S1 as a shopping policy area, and is consistent with its scale and function and such provision is necessary to serve an identifiable local or special retail need.

13. Planning Policy Guidance Note 6: Town Centres and Retail Development, sets out the Government's objectives for retail developments and the key considerations for out-of-centre developments which include the likely impact on existing centres and the accessibility and effect on overall travel patterns which are to be considered having regard to Planning Policy Guidance Note 13: Transport.

#### Consultations and Responses

14. The following consultations have been undertaken and responses received: -

15. *Engineering and Transportation Services:* No highway implications.

16. *Arndale Traders:* No comments received.

17. *London Luton Airport:* No safeguarding objections.

18. *Strategic Planning (Local Plans):* No response received to date.

#### Main Planning Considerations

19. The proposal is intended to increase the amount of floorspace on the premises to meet the changing needs of the Applicant's business and the need to provide adequate storage and display for the product range. The range of products carried by the Applicant and the change in the format of the store will necessitate the display of products within identifiable and distinct areas. The Applicant has advised that this change is to increase customer comfort, with extra floorspace taken up in layout and format, differentiating one area from another and drawing customers' attention to them as separate "product zones".

20. The key issues are considered to be whether the increased floorspace would damage the vitality or viability of existing centres and whether it would lead to a demand for additional parking within the retail park.

21. With respect to current policies, the proposal does not conflict with the aims and objectives of Policy S1. In terms of Policy S3 and the potential effects on both the existing centre and other centres in the Borough, the increased floorspace used for the purpose specified would not have any adverse impact on their vitality or viability. The items involved are an addition to those goods already sold at the premises, which, it is accepted, are more suitably located out of centre.

22. Both Condition 08 of the original 1989 planning permission, and Clause 3 of the Section 52 Agreement require additional parking of at least 1 space per 15 square metres gross floorspace. However, no provision has been made as part of this application for additional parking. This issue should be considered having regard to PPG13, which sets out the circumstances where it is appropriate to change the emphasis and priorities in provision between different transport modes, in pursuit of wider Government objectives.

23. The Gipsy Lane retail park has lost parking spaces as a result of construction of the Luton Parkway railway station and will lose more when Translink is constructed through part of the site. There are currently 691 car parking spaces available at the retail park. The Translink proposals will reduce this by, at most, 187 spaces (more likely by 127 spaces).

24. The Applicants have provided evidence in respect of the impact of introduced mezzanine floorspace, which has concluded that the increase in floor space would result in a small increase in traffic and car park demand. Given the fact that the proposals will increase the ratio of provision from 1 space per 23.4 sq. metres to 1 space per 23.9 sq. metres it may be considered that the level of provision is not materially altered. However, the total number of spaces on the Retail Park is still broadly in conformity with the advice given in Planning Policy Guidance Note 13 and will continue to be so if the current application is approved.

25. Accessibility is a key factor and this site is fairly close to the town centre although pedestrian access is quite poor. The Applicant has referred to similar alterations at other premises occupied by the same retailer and has indicated that the traffic movements at such premises have not significantly altered as a consequence of the additional floorspace. In addition, the proximity of the Parkway Railway Station to the retail park means that the requirement for additional parking need not be pursued in this instance.

**LIST OF BACKGROUND PAPERS**  
**LOCAL GOVERNMENT ACT 1972, SECTION 100D**

26. File No. L/17584/ /0.

27. File No. L/17584/A/0.

28. File No. 03/01595/VARCON.

29. PPG6: Town Centre and Retail Development.

30. PPG13: Transport.

31. The Adopted Luton Borough Local Plan