

Agenda Item A10	Committee Date 09 January 2012	Application Number 11/00917/VLA
Application Site Sunnycliff Retail Park, Mellishaw Lane, Morecambe, Lancashire, LA3 3FE		Proposal Variation to Section 106 Agreement to permit the sale of pets and related products
Name of Applicant NILGOSC		Name of Agent Blue Sky Planning Ltd
Decision Target Date 16 November 2010		Reason For Delay Case Officer Workload
Case Officer		Mr Frank Hayes
Departure		No
Summary of Recommendation		Approval (subject to the signing of the Section 106 agreement variation)

1.0 The Site and its Surroundings

- 1.1 The site that is the subject of this application is situated on the southern edge of the town boundary of Morecambe, adjacent to the White Lune Trading Estate. The area to the north is predominantly characterised by low density industrial units. The area to the south of the site is characterised by open countryside. The site is 2.6 km east of Morecambe Town Centre and 2.9 km west of Lancaster City Centre.
- 1.2 Sunnyscliffe Retail Park comprises of three retail buildings making up eight units arranged around a central car parking area. For each unit the current occupier and approximate building footprint are outlined below;
- Unit A - Dunelm Mill – 1,267 sqm
 - Unit B - Dreams – 772 sqm
 - Unit C – Carpetright – 734 sqm
 - Unit D - Harveys – 995 sqm
 - Unit E - Sports Direct - 1,142 sqm
 - Unit F - Matalan – 1,716 sqm
 - Unit G – Wickes – 2,526 sqm
 - Unit J (Connected to Unit A) – Dunelm Mill – 2,213 sqm (without mezzanine)

There are no current vacancies within the retail park.

- 1.3 The site is accessed via a junction onto Mellishaw Lane. A dedicated service road is provided to the rear of the site which has independent access from Mellishaw Road.

2.0 The Proposal

2.1 Sunnyclyff Retail Park was originally approved by planning application 93/00193/FUL. The permission was subject to numerous conditions and a Section 106 (s106) agreement in December 1993. In order to safeguard the viability of existing town centres, the agreement sought to limit the goods that could be sold from the site. The initial list of goods that could be sold from the site was specified within Clause 3 of the original agreement and identified the following uses within Use Class A1:

- a) DIY products, garden equipment, including furniture, equipment tools and accessories and associated leisure items and all products ancillary to these
- b) Furniture and appropriate accessories
- c) Electrical and gas appliances, fittings, equipment and all products ancillary to these (not more than two units)
- d) Carpets, floor coverings and all products ancillary to these
- e) Home furnishings, textiles and all products ancillary to these
- f) Decorating supplies and all products ancillary to these
- g) Motor accessories, cycle accessories and ancillary sales of cycles, spare parts, maintenance materials and all products ancillary to these
- h) Car showroom and/or sale of motor vehicles and all products ancillary to these
- i) Toys
- j) Golfing equipment, accessories and all products ancillary to these
- k) Leisure equipment and all products ancillary to these.

Over the intervening years, variations to the s106 agreement have permitted changes to the above list of products. The First Variation (13th July 2000) enabled the sale of sports equipment, and also enabled the sale of clothing and footwear in no more than one unit on the site and not in excess of 2276.12 sqm. The Second Variation (24th September 2001) increased the permitted clothing and footwear sales floorspace to 2847.38 sqm.

The current position is that the range of goods that can be sold on site is as follows:

- a) DIY products, garden equipment, including furniture, equipment tools and accessories and associated leisure items and all products ancillary to these
- b) Furniture and appropriate accessories
- c) Electrical and gas appliances, fittings, equipment and all products ancillary to these provided that not more than two of the units constructed on the Property shall be used for the sole primary use of the sale of electrical and gas appliances.
- d) Carpets, floor coverings and all products ancillary to these
- e) Home furnishings, textiles and all products ancillary to these
- f) Decorating supplies and all products ancillary to these
- g) Motor accessories, cycle accessories and ancillary sales of cycles, spare parts, maintenance materials and all products ancillary to these
- h) Car showroom and/or sale of motor vehicles and all products ancillary to these
- i) Sports equipment and all products ancillary to those
- j) Clothing and footwear provided that not more than one unit (which shall not be in excess of 2,847.381 sq. meters of gross internal area) shall be used for the sale of clothing and footwear.
- k) Leisure equipment and all products ancillary to these.

This application relates specifically to the list of products stipulated by Clause 3 of the s106 agreement; in that it seeks to vary that agreement further to allow the sale of pets and pet-related products. The agent has indicated that this is necessary to accommodate a known occupier who is currently looking for larger-scale premises within the District.

3.0 Site History

3.1 The application site has no site-specific allocation in the adopted District Local Plan and is undesignated on the proposals map.

A full planning permission (93/00193/FUL) was granted for the entire site in July 1993. The permission granted a total 110,000 sq. ft (10,219 sqm) of retail space.

More recently, full planning permission (10/00581/FUL) was granted in August 2010 for the installation of a mezzanine within Unit 7 of the retail park to accommodate additional floor space (1,397 sqm) for retail space (furniture), an ancillary café and storage. This was in addition to the existing ground floor household furnishing sales area (1,940 sqm).

A Lawful Development Certificate (10/00499/PLDC) was also granted in August 2010 for Unit J of the retail park for retail (Class A1) comprising of the sale of household products.

Application Number	Proposal	Decision
93/00193/FUL	Construction of Retail Park including 110,000 sq. ft. Retail Space, new vehicular accesses, parking and landscaping and associated engineering works	Approved
93/01049/FUL	Erection of new unit for non food retail uses	Refused
10/00581/FUL	Internal alterations comprising installation of a mezzanine floor for retail, storage and ancillary cafe use and minor alterations to existing shop front (Unit J)	Approved
10/00499/PLDC	Lawful Development Certificate for Retail (Class A1) comprising the sale of household products (Unit J)	Approved

4.0 Consultation Responses

4.1 The following summarises the responses which have been received from internal consultees:

Consultee	Response
Lancaster City Council - Planning Policy	No Objection – the potential use of one of the units at Sunnyclyff Retail Park would be acceptable in principle for use for the sale of pets. A number of distributors, such as ‘Pets at Home’ are more suited to warehouse-type units in out-of-centre retail parks rather than town centre locations. The traffic generated by such uses would also favour an out-of-centre location.
Lancaster City Council - Planning Contributions Officer	No Objection - Indicates that the original agreement of 23 December 1993 specified the retail uses and types of goods that could be sold from the premises. Two successive variations to this agreement have allowed: 1) the sale of sports equipment; 2) the sale of clothing and footwear and 3) specified the amount of floor space given over to clothing and retail sales. Central to these decisions has been the planning policy objective of protecting established retail centres in the District in accordance both with national and district policy. In terms of the likely impacts the establishment of such a business at Mellishaw might have on existing retail centres, this is unlikely given the particular niche being proposed. Consequently there are no sustainable planning arguments for resisting this proposal.
Lancaster City Council – Legal Officer	No Objection – Indicates that all parties to the original S106 agreement would need to consent and be a signatory to any deed of variation.
Lancashire County Highways	No Objection.

5.0 Neighbour Representations

5.1 At the time of compiling this report no neighbourhood representations were received.

6.0 National Planning Guidance

6.1 The Plan for Growth (2011)

The 2011 Budget introduced the **Plan for Growth**, which included additional measures for planning reform not included in the Localism Bill. The plan represents a national economic strategy which seeks to “put the UK on a path to sustainable, long-term economic growth”. Some of the key planning proposals within the strategy include;

- A presumption in favour of sustainable development
- The abolition of housing targets for previously developed land
- A less costly zero carbon standard for homes after 2016
- The introduction of the National Planning Policy Framework

The broad overarching strategy as it relates to planning and development will be implemented the emerging National Planning Policy Framework.

6.2 Draft National Planning Policy Framework

The **Draft National Planning Policy Framework (NPPF)** signals the Government’s intention to replace PPS and PPG Notes with a new framework which indicates a presumption in favour of sustainable development. The NPPF consultation period has concluded and Government will report shortly on the final document. Its formal introduction will be enacted under the provisions of the Localism Act (granted Royal Assent in November 2011). However, although the final content of the post-consultation NPPF is not yet known, the current Draft NPPF remains a material consideration in planning decisions. The extent of weight attributed to the draft document is a matter for the decision-maker – in this case the local planning authority. It is the view of Officers that the application as submitted is in general conformity with the provisions of the Draft NPPF, given the particular end use being proposed on an established retail park.

7.0 Principal Development Plan Policies

7.1 National Planning Policy Statements (PPS) and Guidance Notes (PPG)

PPS1 (Delivering Sustainable Development) - provides generic advice for all new built development. Sites should be capable of optimising the full site boundary and should deliver an appropriate mix of uses, green and other public spaces, safe and accessible environments and visually pleasing architecture. The prudent use of natural resources and assets, and the encouragement of sustainable modes of transport are important components of this advice. This advice is echoed in PPG 13 - Transport. A high level of protection should be given to most valued townscapes and landscapes, wildlife habitats and natural resources, conserving and enhancing wildlife species and habitats and the promotion of biodiversity.

PPS4 (Planning for Sustainable Economic Growth) – sets out planning policies for economic development, including retail development. In determining planning applications for economic development, local planning authorities should adopt a positive and constructive approach. Planning applications that secure sustainable economic growth should be treated favourably. All planning applications for economic development should take into account: carbon dioxide emissions and climate change; accessibility; high quality and inclusive design; economic and physical regeneration, and; impact on local employment. In considering planning applications for main town centre uses not in an existing centre and which are not in accordance with an up to date development plan, a sequential assessment is required. An impact assessment is also required for retail and leisure developments exceeding 2500 sq m gross floorspace.

PPG13 (Transport) - encourages sustainable travel, ideally non-motorised forms of transport such as walking and cycling, but also other means like public transport. The use of the car should be minimised. This can be encouraged by the location, layout and design of new developments.

PPS 23 (Planning and Pollution Control) – considers that the quality of land, air or water and potential impacts arising from development, possibly leading to impacts on health, is capable of being a material planning consideration, in so far as it arises or may arise from or may affect any

land use, and that the planning system plays a key role in determining the location of development which may give rise to pollution, either directly or indirectly, and in ensuring that other uses and developments are not, as far as possible, affected by major existing or potential sources of pollution.

7.2 Regional Spatial Strategy (adopted September 2008)

It is the Government's clear policy intention to revoke the existing Regional Spatial Strategies (RSS), including the RSS for the North West (2008). Abolition of the RSS will be enacted through the Localism Act 2011.

Policy **DP2** (Promote Sustainable Communities) - fostering sustainable relationships between homes, workplaces and other concentrations of regularly used services and facilities, improving the built and natural environment, conserving the region's heritage, promoting community safety and security including flood risk, reviving local economies, promoting physical exercise through opportunities for sport and formal / informal recreation, walking and cycling.

Policy **DP3** (Promote Sustainable Economic Development) - sustainable economic growth should be supported and promoted in a drive to improve productivity.

Policy **DP4** (Make the Best Use of Existing Resources and Infrastructure) - proposals should build upon existing concentrations of activities and existing infrastructure (i.e. not require major investment in new infrastructure, including transport, water supply and sewerage). Development should accord with the sequential approach - use of previously developed land, then infill sites in existing settlements and lastly other sites which are well connected to houses, jobs and other infrastructure and facilities.

Policy **DP5** (Manage Travel Demand; Reduce the Need to Travel, and Increase Accessibility) - development should be located so as to reduce the need to travel, especially by car, and to enable people as far as possible to meet their needs locally. An integrated approach to managing travel demand should be encouraged, and road safety improved.

Policy **W5** (Retail Development) – In considering retail development any investment made should be consistent with the scale and function of the centre, should not undermine the vitality and viability of any other centre or result in the creation of unsustainable shopping patterns. There is a presumption against new out-of-centre regional or sub regional comparison retailing facilities requiring Local Authorities to be pro-active in identifying and creating opportunities for development within town centres.

7.3 Lancaster District Local Plan - adopted April 2004 (saved policies)

Policy **S1** (The District's Retail Hierarchy) – seeks to direct new shopping development to City, District and Local centres identified on the Local Plan proposals map.

Policy **T9** (Providing for Buses in New Development) – seeks to ensure that development which would significantly increase the demand for travel should be designed to maximise opportunities for using public transport and should be located as close as possible to existing or proposed bus services. Opportunities for improving services should be investigated as part of negotiations.

7.4 Lancaster District Core Strategy - adopted July 2008

Policy **SC1** (Sustainable Development) – establishes the overall planning framework for sustainable development in the District. Aims to ensure that new development proposals are as sustainable as possible, minimising greenhouse gas emissions and are adaptable to the likely effects of climate change.

Policy **SC2** (Urban Concentration) – seeks to concentrate the majority of development to the main urban areas of the District. Aims to build sustainable communities by focussing development where it will support the vitality of existing settlements, regenerate areas of need and minimise the need to travel.

Policy **ER4** (Town Centres and Shopping) – aims to promote regeneration by defining and establishing spatial roles for the District's city, town and local shopping centres. In order to maintain

the vitality and viability of its town centres, provide services as locally as possible and minimise the need to shop by car the policy establishes a retail hierarchy which seeks to direct development to the main District centres.

Policy **ER5** (New Retail Development) – aims to focus retail need on regenerating and reinforcing the vitality and viability of existing centres. It is proposed that between 2005 and 2021 new local food retailing is provided in town or local centres or, at an appropriate scale in sustainable locations in areas of deficiency.

8.0 Comment and Analysis

8.1 Principle of the Proposed Use

The existing planning permission has established the principle of retail use (Use Class A1) within the wider site, subject to the caveats contained within the s106 agreement. The proposed amendment for pets and pet-related retailing would also fall within Use Class A1 and would not result in any additional floorspace being created within the retail park. A retail impact assessment and sequential test has not been requested from the applicant on the basis that, unlike other out-of-centre locations, the principle of retail development has already been established on this particular site and that the likely occupier would be more suited to warehouse-type units in retail parks rather than town centre locations.

The applicant has indicated in a supporting letter that neither of the two centres of Lancaster and Morecambe relies on the sale of pets and pet related products to underpin their ongoing vitality and viability. This is borne out by the Retail Study for Lancaster 2006-2016 which, as indicated in the table below, demonstrates that the market share of non-food retail within existing centres is dependent on other goods such as small household items, electrical and clothing and shoes.

Goods	% of people within the Defined Catchment using facilities in Lancaster City as Last Destination:			
	Lancaster City Centre	Morecambe TC	Local Centres	Out-of-Centre
Electrical	20.2%	4.2%	0.4%	4.2%
Furniture	12.4%	7.9%	0.8%	7.1%
DIY	13.0%	7.2%	0.7%	7.8%
Clothing and Shoes	19.8%	3.1%	0.1%	20.0%
Small Household Items	22.8%	3.9%	0.7%	15.4%
Total Comparison	19.3%	4.5%	0.5%	3.3%

(Source: Retail Study for Lancaster 2006 pp. 66)

Table 1: Comparison Goods - Market Share in the Whole Study Area

It is recognised that several pet shops do exist within both Lancaster City Centre and Morecambe Town Centre and these tend to be smaller scale independent shops. However, taking into account the wider exiting mix of retailers and shops selling comparison goods within both Lancaster City Centre and Morecambe Town Centre, the sale of pets and pet-related products forms a small percentage of the overall turnover of both centres. To conclude, given the limited nature in the scale of proposed floor space associated with the application (see section 9) and the characteristics of the market share, the proposal is unlikely to have a material impact upon the vitality and viability of Lancaster City Centre or Morecambe Town Centre.

8.2 Highway Considerations

Given that the proposal does not increase the floorspace of the existing retail park, but merely substitutes one type of retail use for another, the proposal would be unlikely to give rise to any additional traffic generation or parking requirement. Lancashire County Highways have raised no objection to the application.

9.0 Conclusions

9.1 In conclusion the following key findings are evident. It is recommended that floor space associated with the sale of pets and pet related products within the retail park is restricted to 1,000 sqm and that not more than one unit within the site is occupied by this use. This restriction has been agreed

through negotiation with the client. This size of store, as confirmed by the applicant, is sufficient to accommodate the needs of the potential occupier. A Variation of this nature to the S106 Agreement will not have a material adverse impact on the viability and vitality of Lancaster City Centre or Morecambe Town Centre in accordance with national and local policy guidance. It is therefore recommended that the variation of the legal agreement is approved.

Recommendation

That **THE VARIATION TO THE LEGAL AGREEMENT BE GRANTED** subject to the following additions to Clause 3:

L) Pets and pet-related products and all products ancillary to this, on the proviso that no more than one unit is used for the sale of pets and pet-related products, and that that unit shall not be in excess of 1,000 sqm of gross internal area.

Human Rights Act

This recommendation has been reached after consideration of the provisions of The Human Rights Act. Unless otherwise stated in this report, the issues arising do not appear to be of such magnitude to override the responsibility of the City Council to regulate land use for the benefit of the community as a whole, in accordance with national law.

Background Papers

None.