
MAIN CASE

Proposal: Variation of conditions 1, 2 & 3 of Decision dated 3rd October 2008 for application 08/00794/Ful

Location: 104 - 106 Lancaster Way Business Park Ely Cambridgeshire CB6 3NX

Applicant: Reeds Furniture And Bed Centre

Agent: PlanSurv Ltd

Reference No: 12/00770/VAR

Case Officer: Sue Finlayson

Parish: Ely
Ward: Ely South
Ward Councillor/s: Councillor Jeremy Friend-Smith
Councillor Tom Hunt

Date Received: 3 September 2012 Expiry Date: 29 October 2012

[M138]

1.0 EXECUTIVE SUMMARY

- 1.1 This application seeks retrospective planning permission for the use of an existing building at Lancaster Way Business Park for continuous A1 retail use for 90% of the building. It also seeks approval to sell other goods including soft furnishings, flooring, home wares, lighting and linens in connection with the overall business. Current planning restrictions limit the sale of furniture to 50% of the floor space, for a temporary period which expires on 3rd October 2013.
- 1.2 The restrictions upon sales area and goods sold were imposed under planning application E/08/00794/FUL by Planning Committee on 1st October 2008. Concern was raised at that time that as Lancaster Way was essentially a business/industrial site, and away from the commercial retail centre of Ely, that retail use on the site should be restricted, and alternative premises be sought. The occupier of the premises has changed and the retail sales have grown over intervening years.
- 1.3 Policy S1 of the Core Strategy and Part 2 of the National Planning Policy Framework stress that the town centre should be the focus of retail development to ensure its vibrancy and vitality. This location, whilst ideal for industrial and business use, is not a sustainable location for purely retail sales. The applicant has carried out a sequential test indicating there are no other suitable sites, however it is considered that the application should be refused as the proposal is contrary to Policy S1 which seeks to retain retail development in town centre or edge of centre sites to enhance

the vitality and viability of existing town centres and provide a sustainable location where combined trips would be possible. In addition, no evidence has been provided to show the potential impact of extended sales on the city centre shops, contrary to Policy S1. Further, the expanded use of the premises for retail sales would involve the loss of B1//B2/B8 land, contrary to policy EC1 of the Core Strategy which highlights the importance of retaining employment sites, and would set a precedent for further A1 uses on the Business Park or in other out of town locations in the district.

1.4 The application is recommended for REFUSAL.

1.5 A site visit has been arranged for 11.55am

2.0 **THE APPLICATION**

2.1 The application proposes the variation of 3 conditions which were imposed when Members approved application E/08/00794/FUL at Planning Committee on 1st October 2008.

2.2 Condition 1 proposed that the permission for A1 retail use should be for a temporary period of 5 years (from 3.10.08), following which the building should revert to its use as B1©, B2 or B8. The applicant proposes that this restriction be removed to allow continued retail use.

2.3 Condition 2 stated that the A1(retail) element floor space should be limited to 50% of the overall business in units 3 and 4 and operate from the showroom area only as shown on the submitted plan. The applicant proposes that the A1(retail) element floor space should be 90% of the overall business as shown on a revised submitted plan.

2.4 Condition 3 restricted the retail sales to the sale of furniture in connection with the overall business, comprising storage and a workshop at unit 3. Permission was not given for general A1 retailing for either a different type of product or for a separate retail unit in its own right. The applicant proposes that the part of the building approved for retail use should be restricted to the sale of furniture, soft furnishings, flooring, home wares, lighting and linens in connection with the overall business.

2.5 The application is supported by a Design and Access Statement and a Sequential Test and Retail Impact Assessment.

3.0 **THE APPLICANT'S CASE**

3.1 The applicant has submitted the following summary. Full details of the application can be found on the Council's website via the following link: <http://pa.eastcambs.gov.uk/online-applications/applicationDetails.do?activeTab=externalDocuments&keyVal=M9MFAF GG55000>

- The site has an extant temporary retail permission granted as no suitable alternative units were available

- National and Local planning policy is clear that where suitable retail locations do not exist within the city centre or on the edge of centre then out of centre sites will be considered appropriate
- The applicant has demonstrated that there are no suitable retail units of the size required within the City Centre or on the edge of centre
- It has been demonstrated that the current retail offering at Reeds has had no negative impact on the City Centre and the proposed increase in the retail floor area can reasonably be expected to have no additional impact
- The Council's aspirations for bulky goods retail at Angel Drove is acknowledged but these retail units are at least five years from completion and there is no guarantee that Tesco would wish to share a site with Reeds as it is more likely that they would favour a Furniture Village or Homebase store as these chains are perceived to be a more secure covenant.
- If an available site did exist, the cost to shop fit a new unit would be in the region of £500,000; a cost that the company could not afford in these challenging economic times, particularly in light of the investment it has already made at Lancaster Way.
- The store currently employs 7 staff and seeks to increase this to 21 staff, which is significantly more than might be expected of a similarly sized warehouse use. The increase in staff is dependent on the extension of the retail area and offering at Reeds, some of which could be argued is ancillary to its existing retail consent for example beds and ancillary bed linen.
- Grovemere has expressed their support for Reeds' application but have confirmed that they do not wish to turn Lancaster Way into a retail park
- The applicant is more than willing to accept a permission that restricts the retail use of the unit to Reeds and Reeds alone. Should Reeds cease to trade from Lancaster Way in the future the use of the current store would revert to B1, B2 and B8, thereby preventing the proliferation of retail at Lancaster Way.
- The proven lack of alternative premises, the prohibitive cost of relocation and the existing and proposed jobs alongside the positive impact Reeds has had on the City Centre by acting as an anchor drawing people to Ely from beyond the district, provide sufficient material considerations to justify the development proposed.
- Reeds has and continues to boost the profile of Ely as a retail destination
- The evidence from the customer questionnaires demonstrates that the current store is drawing people into East Cambridgeshire and in to Ely in linked trips actually increasing rather than decreasing the number of visitors to Ely City Centre.
- The extended retail offering will offer some competition to retailers within the City, although in many instances the target audience is very different. Any competition offered by the extended retail offering at Reeds would be no more than those stores in Newmarket or Cambridge
- No objections have been received in relation to the application on highways grounds

4.0 **THE SITE AND ITS ENVIRONMENT**

- 4.1 The site is located close to the entrance of Lancaster Way, on the south-west side of the main access road into the site, adjacent to Plumbase and N & C Glass, and opposite the Volvo Group building. There is a car park to the front of the site and open grass land to the south-east and south-west. The premises comprises 1,773 sqm (19,085 sq ft) in area over two floors. The building has a glazed side and frontage, with the rest of the building clad in corrugated metal fabric.

5.0 **PLANNING HISTORY**

5.1

11/00339/ADN	Proposed roadside hoarding sign (Retrospective)	Refused	16.06.2011
08/00794/FUL	Change of use of building as B1 (c) (light industrial), B8 (storage) and A1 (retail) (Retrospective)	Approved	03.10.2008
02/00892/FUL	B1C, B2, B8 development incorporating use for "Fenland Pine Interiors".	Approved	24.01.2003
94/00559/OUT	B1,B2 and B8 Development	Approved	08.09.1994

6.0 **REPLIES TO CONSULTATIONS**

- 6.1 Site notice posted in front window of the shop and two adjacent premises notified by letter. No replies received.
- 6.2 **City of Ely Council:** Members were content for this business to continue trading as they are and extend their retail range, but strongly feel a precedent should not be created which would allow other units on this Business Park to become retail.
- 6.3 **County Highways:** The trip profile for non-food retail is different to that for employment uses. A non-food retail use would generate more car journeys to and from the premises, but the peak time would differ from the peak time for the network and for the other employment uses on the site. Bearing in mind the proportion of the Business Park overall that remains in employment use, I consider that there would be no justification for a refusal on highways grounds to this particular proposal.

7.0 **THE PLANNING POLICY CONTEXT**

7.1 **East Cambridgeshire Core Strategy 2009**

CS1	Spatial Strategy
CS4	Employment
CS9	Ely
CS7	Infrastructure
CS5	Retail and town centre uses
EC1	Retention of employment sites
S1	Location of retail and town centre uses
S4	Developer contribution
S6	Transport impact
S7	Parking provision

7.2 National Planning Policy Framework 2012

- 1 Building a strong, competitive economy
- 2 Ensuring the vitality of town centres
- 3 Supporting a prosperous rural economy

8.0 **PLANNING COMMENTS**

8.1 The decision notice for the existing planning approval (E/08/00794/FUL) is attached at Appendix A for Members to see the full text and reasons for the conditions. This application proposes, within the variation of these conditions that the temporary nature of the permission be removed, that 90% of the floor space be used for retail use, and that additional goods be allowed to be sold. The main issues to consider in the determination of this application are:

- The planning history
- The implications of the proposed condition variations in terms of current planning policy

8.2 Planning history:

It is important to set the context of this application as there has been a previous retrospective application in respect of the proposed use. The site forms part of the wider Lancaster Way Business Park, which was approved in 1994, under planning reference E/94/00559/OUT for B1, B2 and B8 use. The Park has been successfully developed over the intervening years and provides employment for a considerable number of people. The Park was earmarked in the Core Strategy, under policies CS4 and CS9 for expansion of those uses, and 36 hectares of land was given outline consent for B1(b), (c), B2 and B8 use under planning reference E/08/00563/ESO on 4th February 2011. On 24th January 2003, application reference E/02/00892/FUL was approved for the building to be used for B1, B2 and B8 use for Fenland Pine, which had transferred from premises in Broad Street. Whilst a showroom was included in the submitted plans, its use was restricted to prevent direct sales to the public and subsequent unrestricted retail use by the following condition:

Unit 4 to be occupied by Fenland Pine Interiors shall only be used for warehouse, office and furniture showroom uses and laid out as detailed on the floor plan submitted 16th January 2003. Unit 4 shall be used for the display and sale of goods manufactured by Fenland Pine Interiors in unit 3 but not for direct retail sales to the public.

Reason: To prevent the unit being used for an unrestricted A1 retail use which would be inappropriate in an out of town location. Conditional planning permission is granted to facilitate the relocation of this existing established business from Broad Street, Ely operating on a "factory shop" basis.

8.3 In 2008 Fenland Pine submitted a retrospective application for 54% (961 sqm) of floor space to be used as a showroom and retail sales (A1), and the continuing use of the rest of the space (812 sqm) for storage and a workshop, principally used for polishing and finishing imported furniture. This application sought to regularize the

unauthorised retail sales following enforcement action. The application was recommended for refusal, but at Planning Committee on 1st October 2008 Members determined that the application should be approved for a period of 5 years, with the restriction that only 50% of the floor space should be used for retail sales, and this should be limited purely to furniture. Members noted that at that time there did not appear to be alternative suitable premises, and that the occupier had a lease with 4 years remaining.

- 8.4 The applicant (Reeds Furniture and Bedding centre) has occupied the premises for the last 3½ years. A considerable amount of the two floors of the building are now laid out for retail sales hence the current application for unrestricted sales of furniture and other associated goods over 90% of the floor space.
- 8.5 It can be seen from the above history that the Council has attempted to restrict the unfettered A1 use of the premises since 2003. The applicant at that time was aware of Council concerns that the site was not a sustainable location for retail use, and such use was contrary to policy. This would also have been the case when the present occupier took over the premises. This current application seeks to change the use of the premises by the variation of existing restrictive conditions so that it completely changes the use that the building has permission for – a mix of B1/B2/B8 and A1, a use which would expire on 3rd October 2013. Officers consider that materially changing the use of the site should be made by a change of use application, not by attempting to vary the planning conditions.
- 8.6 The implications of the proposed condition variations in terms of current planning policy:
Policy CS5 seeks to strengthen and regenerate the town centre of Ely as the sustainable focus of the community. It states that large-scale retail development should be located within Ely as the Major Town Centre in the district, and suggests that 8,500 sqm of comparison retail floor space should be provided. It recognises that land within the existing core of the city is lacking due to the historic fabric, and suggests the main opportunity for expansion is on the northern edge of the town centre where high quality mixed use development could be provided with good pedestrian links to the existing centre. The Ely Masterplan proposes within the Development Framework for Ely that a new commercial park should be created at Angel Drove which will complement the city centre expansion by providing opportunities for bulky goods retail showrooms alongside business development. Such an application is in the process of being developed and public exhibitions have been held. The Masterplan again earmarks business use at Lancaster Way.
- 8.7 The main aim of Policy S1 (Location of retail and town centre uses) is to ensure that the vitality and viability of town centres is enhanced by making town centres the focus for shopping and leisure development. Policy S1 reflects the key considerations contained in former Government guidance set out in PPS6. Whilst this guidance has now been superseded by the National Planning Policy Framework, Part 2 of that document contains much of the former guidance in that it stresses the requirement for *“main town centre uses to 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. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre.”*(para 24) the current site is not an out of centre site, it is an out of town site.

Outside town centres, Policy S1 states that proposals for retail development will need to demonstrate that (amongst other things):

1. The site is suitable and the building appropriate to the local context; and
2. The scale and type of development directly relates to the role and function of its locality, to accord with the hierarchy set out in Policy CS5; and
3. A sequential approach has been followed in site selection; and
4. There would be no adverse impact on the vitality and viability of the centre or other centres; and
5. The development would enhance the character and attractiveness of the centre and its locality; and
6. The development would be accessible by a choice of means of public transport.

8.8 Looking at each criterion in turn: in respect of (1) above, it is the case that the building occupied by Reeds Furniture Store is of a form and design appropriate to its local context, however it is considered the site is not suitable for purely A1 retail use. It is the case that adjacent premises have an element of retail sales, but this is mainly to trade customers and the majority of the business is for storage/distribution or fabrication of their goods. The application site has a large display of goods and relies on the general public coming to view its goods for its trade. The applicant states that this criterion is fulfilled due to past planning consents, however the scale of retail use and goods for sale, was restricted, and the last approval was for a temporary period.

8.9 With regard to criterion (2), a retail store of such significant size would be expected to locate within Ely, not in a location over 2.6 miles from the city centre. In relation to criterion (3), the applicant has carried out and submitted a sequential test and has looked at 13 sites varying in size and distance from the city centre. They were considered on the basis of the operational requirements of the store, being:

- The need for 1,500 sqm of retail space, with 800 sqm workshop/office/storage within the building or nearby, and loading bays;
- Within 1.5 miles of the A10, within 1 mile of the city centre and adequate parking;
- Built and available A1 use.

Most of the sites considered were rejected, in the main, due to inadequate size, e.g. Peacock House, 13-15 Market Street, former Millets in Market Place. Those that did meet the space criterion were the Aldi site, Lisle Lane; Octagon Business Park; Ford Motor Garage Angel Drove, and the current site at Lancaster Way. However Aldi is currently developing their site for convenience goods and Octagon Park does not have A1 use. The Ford site was refused planning permission in July due to the proposed comprehensive redevelopment of the station area. An appeal or new application would be unlikely to be resolved within the lifetime of the existing planning consent which expires on 3rd October 2013, and the cost of relocating the store from its current site would be prohibitive. The conclusion was that whilst the existing store did not have the storage space within the building, space was available on the Business Park, and as such the continued use of the site should be supported.

8.10 The applicant did not consider the future site at Angel Drove, referred to in para 8.6 above within the submitted sequential test, but has subsequently advised that this site would not be suitable due to the time frame for the delivery of that site. He has also stated that Tesco may not wish to share the site with Reeds as they may have other chains. However the applicant for the Angel Drove site will be Mantles, and it is they

who will have control over the leases given. As stated above, when this site was first considered for retail use, that use was ancillary to the workshop/storage, then in 2008 the retail element grew to 50% of the space. Now almost all of the space is proposed for such use. This has changed the nature of the business use and consequently reduced the potential site search. It is accepted that large sites close to the city centre are not currently available, but this matter is being addressed by future policy in The Masterplan. The retail use of the site has grown, contrary to planning consents, and the lack of alternative sites at the now required scale, should not mean that policy should be set aside to accommodate it.

- 8.11 Criterion (4) is of particular importance as the key aim of Policy S1 is to ensure the continued viability and vitality of the city centre. The applicant has carried out some research in this regard, in the form of a retail impact assessment and a survey of customers asking them where they came from and enquiring about any linked trips, either for further shopping, or leisure. The retail impact assessment concludes that:
- there are few vacant sites in Ely city centre, of those, none are furniture stores;
 - since October 2008 there has been considerable investment in the centre (Aldi, Sainsbury's and Wildwoods) thus the location of Reeds Store has not had a negative impact on inward investment;
 - therefore whilst in direct competition with some stores in the city, Reeds has not negatively impacted on the continued trading of those businesses.

The applicant argues that the existing store reduces the need for customers to travel beyond the district for bulky comparison retailing and attracts visitors to Ely. This is revealed in its customer survey, which showed 29% visiting from Ely, Witchford and Littleport, and 54% from within 8 miles. The rest are attracted from as far afield as Chatteris, Cambridge Peterborough and Kings Lynn. The survey results also showed that 54% of customers visited Ely before or after their visit to the store, 12% going to the Cathedral, 20% have lunch or coffee within the city and 59% visit the shops. Customers were asked if they would support the proposed extended goods range and whether they would like to see a café in store. Both questions received a positive response from 219 customers. The applicant states that they operate a 27,000sqft (2,500sqm) store in Downham Market and customers expect a similar shopping experience in Ely.

- 8.12 Whilst there may not be many dedicated furniture stores of scale in the city, it is the case that the Cargo retail outlet has closed in the last 3 years. The applicant is also proposing to sell additional items such as carpets, curtains, linens, lighting and home wares. A number of retail outlets within the city centre, some with a particular individuality, deal in these items and there could therefore, be a considerable impact on their trade. The assessment does not address this impact. The information regarding linked trips is interesting, and undoubtedly some customers will make combined trips, but given that 54% of the store customers are very local (within 8 miles) those people are highly likely to visit Ely anyway. The provision of a coffee shop within the store would also be likely to reduce the number of customers seeking out cafes in Ely.

- 8.13 In respect of criterion (5), the application would not enhance the character and attractiveness of the centre of Ely, as it is located elsewhere, however it undoubtedly enhances the attractiveness of Lancaster Way as it attracts the general public. Criterion (6) centres on the sustainability of the location of the store. Lancaster Way

is on a bus route from the town centre, and there is also a foot path and cycleway from the settlement edge but the bus route is not particularly frequent. Whilst the applicant draws attention to the proposed subsidisation of a bus route when the Park is extended, this will be some time in the future. It is therefore considered that almost all visitors to the store would travel by car. Consequently the proposal would not comply with this criterion. The basis of the NPPF is that applications which are sustainable in nature, should be supported, provided all other material considerations are satisfied. It is considered that this site is not a sustainable location for the current and proposed use.

- 8.14 As stated above the Council views Lancaster Way as an important employment site. Whilst the applicant envisages that some 21 jobs will be either retained or created if the current application is approved, it is a fact that the current B1/B2/B8 uses will be lost from the site. This would be contrary to Policy EC1 which seeks to retain employment (B1/B2/B8) sites unless it can be demonstrated that:
- Continued use of the site for employment purposes is not longer viable, taking account of site characteristics, building quality and market demand; or
 - Employment use of the site would give rise to unacceptable environmental or traffic problems; or
 - An alternative use or mix of uses offers greater potential benefits to the community in meeting local business needs and employment needs.

In this instance the proposal is not considered to comply with Policy EC1 as other employment uses have not been investigated to assess whether the current/proposed use would provide the best benefits for employment needs, and as the whole site is earmarked for employment use there would be no environmental or traffic problems with the original B1/B2/B8 use of the site. extended use for A1 retail would set a precedent for other sites on the Park and on other out of town sites in the district, contrary to Policy S1.

- 8.15 Summary:
The planning history of this site reveals that the Council has sought to restrict retail sales from this site, both because of its unsustainable location away from the city centre, and in order to retain employment uses for which Lancaster Way Business Park has consent. The planning conditions imposed under temporary consent E/08/00794/FUL were imposed for that reason. However the occupier of the premises has changed and the retail sales have grown over intervening years. Policy S1 and the NPPF stress that the town centre should be the focus of retail development to ensure its vibrancy and vitality. This location, whilst ideal for industrial and business use, is not a sustainable location for purely retail sales, as it is an out of town site.

- 8.16 The applicant has carried out a sequential test indicating there are no other suitable sites, and shown evidence of linked trips. However the variation of the conditions as proposed would materially expand the retail provision, changing the current approved use considerably, undermining the retail strategy set out in Policy S1 and progressed through the Ely Masterplan, and potentially adversely impacting on city centre stores which retail the expanded group of goods proposed. The proposal is contrary to Policy S1 which seeks to retain retail development in town centre or edge of centre sites to enhance the vitality and viability of existing town centres and provide a sustainable location where combined trips would be possible. In addition, no evidence has been provided to show the potential impact of extended sales on the city centre

shops, contrary to Policy S1. Further, the expanded use of the premises for retail sales would involve the loss of B1//B2/B8 land, contrary to policy EC1 of the Core Strategy which highlights the importance of retaining employment sites, and would set a precedent for further A1 uses on the Business Park or in other out of town locations in the district. The application is therefore recommended for refusal.

9.0 **RECOMMENDATION** REFUSE for the following reasons:

- 1 Lancaster Way is a key employment area for B1/B2/B8 uses. The development of retail uses on the site does not accord with the Council's vision for Lancaster Way as a key area of employment provision for the district, as set out in Policies CS4 and CS9 of the East Cambridgeshire Core Strategy 2009. Retail use would involve the loss of B1//B2/B8 land, contrary to policy EC1 of the Core Strategy which highlights the importance of retaining employment sites. It would also set a precedent for such use on other sites in the Park and on other out of town locations in the district, contrary to Policy S1 of the East Cambridgeshire Core Strategy 2009.
- 2 Policy S1 of the Core Strategy and Part 2 of the National Planning Policy Framework stress that the town centre should be the focus of retail development to ensure its vibrancy and vitality and provide a sustainable location where combined trips are possible. The conditions imposed under planning approval E/08/00794/FUL sought to restrict the amount of retail use of the property and limit the period of such use until alternative premises had been found. Instead the retail use has expanded, creating more retail space in this out of town location, which does not benefit from good transport links, other than by car. Consequently the variation of those restrictive conditions would materially alter the nature of the original consent and extend a retail use in an out of town, unsustainable location, contrary to Policy S1 of the East Cambridgeshire Core Strategy 2009.
3. The applicant's sequential test seeks to show there are no sequentially preferable sites available. It is accepted that the availability of sites is limited, particularly by the historic core of the city, but the Council's Ely Masterplan aims to address this, particularly with a bulky goods site to the south of the city. The continued expansion of the current retail use, under a temporary permission has imposed an unrealistic limit on the search for a new site and prejudices the delivery of the retail strategy set out in the current Core Strategy, the Ely Masterplan and the draft Local Plan which is currently in progress.
4. The retail impact assessment concludes that there would be no adverse impact on the vitality and viability of the city centre. However, whilst there are few stores retailing furniture, the assessment does not address the impact of the proposed extension of goods being offered for sale, such as carpets, lighting, curtains etc, of which there are a number of city centre retail outlets which may be significantly adversely affected by the proposed variation of condition, as such the proposal does not comply with Policy S1 of the East Cambridgeshire Core Strategy 2009.

APPENDICES

- Appendix 1 – Planning Decision Notice E/08/00794/FUL

<u>Background Documents</u>	<u>Location(s)</u>	<u>Contact Officer(s)</u>
Planning application Files: E/08/00794/FUL E/02/00892/FUL	Sue Finlayson Room No. 011 The Grange Ely	Sue Finlayson Team Leader, Development Control 01353 665555 sue.finlayson@eastcambs.gov.uk