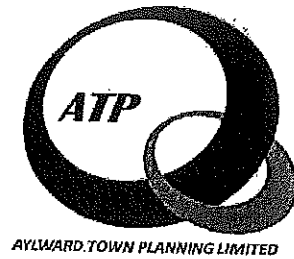


Our ref: MA/TMBC/001-1/L004m  
Your ref: CANNON LANE ADVICE 290916



Date: 30 September 2016

Julian Moat  
Tonbridge and Malling Borough Council  
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ME19 4LZ

Dear Julian

### **Planning Applications for Retail and Commercial Uses at former B & Q, Cannon Lane, Tonbridge**

We write with regard to the above planning applications and with particular reference to our instruction to advise TMBC ('the Council') on the merits of the proposals in terms of its compliance with retail and town centre policy as set out by the statutory development plan and the NPPF. This is written in response to the applicant's most recent submissions dated 26<sup>th</sup> September 2016 comprising:

- Updated Planning and Retail Statement
- information in respect of Go Outdoors trading format
- Previous decisions pertaining to Go Outdoors
- File copies of earlier applicant correspondence

This approach responds to our earlier requests for a more comprehensive analysis of the retail planning implications of the proposals both in the scope of the work but also in regards to the presentation of that material. Through our review of this subsequent material, we note that the various matters have been addressed and (whilst we do not agree with all of the arguments which are made) it is now clear how the applicant's assertions have been reached and we would now agree that the applicant has provided an appropriate impact assessment to seek to demonstrate that the development is acceptable in planning terms.

### **The Proposals**

The proposal can be read as a whole but in development management terms comprises a suite of applications that are intrinsically linked. The proposal's scope has been amended over time and this approach has been accepted by the Council in terms of its ongoing validation of the applications.

The applications (as a suite) effectively result in the sub-division of the now vacant B & Q to provide 5 trading units, including a number of extensions to meet occupier requirements. The applicant has named three of the operators (Costa, Go Outdoors and Home Bargains) and clarified that one of the residual two units would be

occupied by a pet retailer. There is no indication as to the target occupier for the final unit but through separate dialogue it is clear that the applicant is willing to accept a bulky goods restriction (by way of planning condition) for its future use.

### **ATP's Role and Advice**

The applicant has submitted an application to the Council, and given the technical nature of the application they have decided to seek specialist advice as a bespoke commission. ATP is therefore acting for the local planning authority to provide appropriate planning advice, but it has also been agreed (as part of the Council's positive approach to development management) that ATP would liaise with the applicant and seek to identify an approach which would allow meaningful robust planning conclusions to be reached.

This approach has resulted in the provision of a more comprehensive analysis of the retail planning implications of the proposals both in the scope of the work but also in regards to the presentation of that material. Through our review of this subsequent material, we note that the various matters we have previously raised have been addressed to an extent where the planning merits of the proposal can be properly adjudged.

ATP'S role is to consider the retail planning effects of the proposal which therefore encompasses impact and sequential considerations. The site is outside a defined town centre and the proposal will result in additional floorspace and also changes to the operation of existing floorspace which will (in aggregate form) clearly exceed the 2500 sq m threshold set out by the NPPF. As such, an impact assessment is necessary. The applicant also needs to provide justification that they have properly considered the sequential approach to site selection. In terms of this matter, we have had dialogue with the Council's planning officers and our advice reflects their guidance in terms of the current status of more centrally located sites.

### **Sequential Analysis**

The applicant has considered wider development sites and indeed the extent of available units to meet the requirements of individual occupiers. The purpose of the development and the trading requirements of the retail occupiers have now been much more strongly clarified and this sets an adequate framework to progress the sequential approach to site selection for these retail uses. ATP accepts that there is no clear evidence that there are genuinely available existing units in the town centre which would meet the reasonable requirements of any of the four proposed retail units.

Turning now to development sites, the Council has identified a number of development sites in the town centre which the applicant has sought to assess. These sites are identifiable through a town centre visit, but have also been established within an AAP and therefore represent Development Plan aspirations.

### ***Botany***

The key site in this vein is the Botany site, which has been a long-identified opportunity in mixed ownership (including the Council's car parks) that was at one point being promoted for a foodstore-led development which

would include other retail and evening economy uses. The decision by the key retailer to abandon the scheme in 2014 stalled the development and the applicant suggests that there are no obvious signs of momentum towards the development being brought forward and therefore it would not represent a realistic short-term or medium-term site in terms of the established criteria for the sequential approach to site selection.

We have previously raised concerns that the applicant's assessment of the Botany site was incomplete as it largely relied on a premise that the absence of current activity should then be read to say that it would not represent a deliverable and available site in the medium term at the earliest. As such, we invited the applicant to provide further clarification as to why the Botany site could not be accelerated, which is key to it being discounted.

Having had further dialogue with the Council, they conclude that any redevelopment of the Botany site would need to be subject to detailed consultation and the drafting of a development brief which would itself need to be market-tested. This will of course include an analysis as to the physical scope of the redevelopment opportunity which could be less ambitious than the earlier plans subject to the outcome of the market testing. Given this context and the fact that this extensive work is still largely incomplete, the Council accepts the applicant's argument that the Botany site is unlikely to be available in the medium-term period.

#### *Other Sites*

The applicant has considered a wide range of sites which have been identified in the AAP for their sequential analysis, a number of which have subsequently been or are in the process of being developed out. We accept the applicant's analysis which is that these other sites are variously impeded and would in any event represent a poor fit for what is proposed by the applicant.

#### *Unit 1E*

Unit 1E is considerably smaller than the other units and should be identified as an A3 use. It is self-evident that units of this size can be found or could be created within the town centre now or through any one of the AAP schemes. To that extent, a suitable unit (in terms of physical dimensions) could easily be identified in a more central location.

However, the applicant does point out that the proposed coffee shop could straightforwardly be deemed as an ancillary component of what is essentially a small retail park. The addition of a coffee shop does raise the prospect of a longer shopping trip which therefore increases the potential for trade impact upon those stores and centres which currently enjoy that leaked trade.

Whilst we do consider that the applicant's arguments in these respects are incomplete, we would advise the Council that it has been held in other locations that such facilities can be an integral feature of an out-of-centre shopping park and that coffee shop operators would view these as independent trading formats. However, this is on the strict understanding that the A3 use is controlled by condition as the use of this unit for open A1 could result in planning impacts which have not been assessed and could be unwelcome. On that basis (and strictly on

the assumption that the A3 use is subject of planning condition) we accept that the A3 unit should be read as a component part of the wider development and ancillary to it.

### Sequential Summary

In the light of all of the above (and after dialogue with the Council's officers) we do not seek to argue that a site can be identified that properly meets the requirement of being more centrally located and being suitable, available and viable. Whilst these matters are finely balanced, the NPPF presumption for refusal (if there were a failure of the sequential approach to site selection) should not apply.

## **Impact Analysis**

Retail impact assessment is necessary and in order to provide a proper basis to make judgments then the applicant needs to:

1. Establish existing shopping patterns using appropriate evidence;
2. Set out the nature of the proposal and its potential turnover;
3. Assess likely patterns of trade diversion based on sound judgment;
4. Ascertain the current health and resilience of defined centres to change;
5. Take account of commitment schemes and their trade diversion patterns;
6. Undertake a cumulative assessment and adjudge whether impact levels reach significant adverse;
7. Assess the potential for impediment to planned investment; and
8. Give weight to wider factors to assist the planning balance exercise.

### Establish existing shopping patterns using appropriate evidence

Following discussions with the applicant, it was agreed that the use of the Tunbridge Wells Retail Study could provide an acceptable and appropriate basis to understand shopping patterns for the Tonbridge area, subject to building in the effects of commitment schemes which would be had after the date of the base household survey.

The baseline evidence suggests strong trade retention in certain sectors of comparison goods shopping (notably DIY goods) and weaker levels in higher-order shopping (such as fashion and footwear) where there is considerable leakage to higher order centres and indeed regional out-of-centre facilities which can provide the range and depth of shopping choices. ATP are satisfied that the applicant has provided evidence which demonstrates the nature of established shopping patterns in the local area.

### Set out the nature of the proposal and its potential turnover

The suite of applications will result in five units, all of which will support A1 retail uses with the exception of unit 1E which will operate under Class A3. The applicant has now set out the use of an 80% net to gross ratio and a sales density of £2950 per square metre per annum for each of the four units. Whilst this approach has changed over time, given that the applicant is separately agreeing end user controls we would agree that three of the units (1A, 1B and 1D) do properly represent bulky retailing. In terms of unit 1C, this is expressly variety retailing (non-

food use with 30% food and drink) and therefore allows for a wider range of goods to be sold but in terms of trading densities the modelled figure is consistent with analysis that has been had for these types of operator by other established retail planners.

We therefore confirm that we are satisfied that the revised material now provides credible information to set out the nature of the proposal and its potential turnover, including reference to planning controls as necessary.

*Assess likely patterns of trade diversion based on sound judgment*

Montagu Evans have provided a trade diversion analysis which groups stores by zone (as opposed to first assessing the zonal locations of the resident shoppers). Clearly there will be some commonality between the two measures but it would be preferable in principle to undertake a zonal analysis based on changes to resident shopping patterns rather than by the location of the store itself. We also note (positively) that Montagu Evans have now adjusted their trade diversion analysis to more closely reflect the occupier profile, rather than simply replicating current shopping patterns.

We do have continuing concerns with the projected pattern of trade diversion which suggests a clawback of trade from a range of higher order centres for stores (perhaps with the exception of Go Outdoors) that have a largely localized function. We would find it unlikely for example that purchases for pet goods would be typically undertaken as part of occasional trips to higher order centres for more specialist goods and ranges. We think it more likely that greater trade will be diverted from facilities in and close to Tunbridge (such as the Longbridge out of centre facilities).

Notwithstanding this, we would accept that the extent of trade diversion from Tonbridge town centre (modelled at approximately 16% of the development's turnover) is unlikely to be materially higher especially in the context of the planning controls which have been promoted.

*Ascertain the current health and resilience of defined centres to change*

Montagu Evans have updated their health check to respond directly to the framework set out in the NPPG- this is extremely helpful and consistent with our request to do so.

The healthcheck suggests that both vacancy levels and the composition of the centre are broadly consistent with the national average. The presence of multiple stores is noted in the food sector, although this is less apparent in terms of the non-food offer. The Venuescore ranking confirms the view that Tonbridge is a lower order centre (as compared to nearby Tunbridge Wells or Maidstone). This is a snapshot study so it is difficult therefore to establish any trend data and ascertain whether the centre's general vitality is markedly changing over time.

It would be our view that the key indicators of vitality suggest that the town centre is performing reasonably well and there are no obvious signs of vulnerability or decline. As such, we have no clear evidence to disagree with the conclusions of the applicant in terms of the health of the centre which cross-refer to the views of Council officers in relation to the Homebase application.

Notwithstanding the above, we would encourage the Council to introduce a regular programme of town centre health checks so that any future vulnerability can be identified at an early stage but also so that trend data can be considered objectively. It would appear that the town centre has a relatively limited comparison shopping function, but that it is nonetheless in reasonable health.

Take account of commitment schemes and their trade diversion patterns

Further to dialogue, the applicant has modelled the trading effects of previous approvals on the subject site and nearby Homebase, as well as consideration of a recent approval to expand the offer of Tunbridge Wells town centre. It is clear that the trading effect of commitments is largely skewed to convenience shopping owing to the introduction of Simply Food and a food discounter both of which have been adjudged to draw considerable trade from the town centre. We would point out that in proportionate terms, the town centre turnover is somewhat weighted to convenience goods as shown below for the 2021 design year.

DESTINATION	2021 £m conv T/O	2021 £m comp T/O	2021 £m total T/O	% comp / % conv
Tonbridge TC	£105.11m	£49.68m	£154.79m	32.1% / 67.9%

As a consequence of the above, the goods based impact of commitments is likely to be in the order of 7.8% (convenience) and 5.5% (comparison). These effects ignore the potential additional impacts of the proposal whilst these impacts are not insubstantial they are of course planning approved.

Undertake a cumulative assessment and adjudge whether impact levels reach significant adverse

We note that the applicant has undertaken a cumulative assessment for all retail goods which we consider helpful, albeit in some instances it can be important to take a more granular goods based approach particularly if there are concerns in terms of the vulnerability of a centre due to an imbalanced town centre composition. In this instance, the health check shows that town centre composition is not atypical so those concerns are not relevant.

It must be noted that the established shopping hierarchy functions in a manner where Tonbridge residents typically gravitate to larger centres and regional shopping destinations where they are looking to purchase higher order comparison goods. Clearly that extent of leakage is a concern, and it would be appropriate for the Council to plan to arrest further leakage by creating opportunities for improvements to the town centre offer.

The evidence suggests that Tonbridge is not exuding any clear signs of poor health or vulnerability. With that in mind, the cumulative extent of trade diversion from the town centre is substantial and is a material consideration. However, the sources of trade for the proposal are varied and Tonbridge town centre is unlikely to be a key source of trade as those types and formats of retailing are simply not present in the town centre to any material degree. The previous statement is strictly subject to the imposition and retention of the proposed planning conditions which will control the types of end use and mitigate against unforeseen additional impacts.

The cumulative assessment suggests that the aggregate diversions from the town centre (as a result of the commitments) would be £10.91m in the 2021 design year and the additional effect of the proposal would be a

further £1.91m. The cumulative diversion is therefore £12.82m which equates to 8.36%. Whilst these matters are somewhat finely balanced, these impacts do not (in our view) reach the threshold of significant adverse and therefore the NPPF presumption for refusal (if there were significant adverse impact) should not apply.

*Assess the potential for impediment to planned investment*

The applicant correctly sets out that there is very substantial leakage of non-food shopping spend to larger centres and other sub-regional shopping attractions. We would agree with Montagu Evans that overall comparison retention levels are relatively low and that there should be scope for it to be improved subject to the composition of that scheme-with much more potential for growth in less bulky sectors.

Whilst the Botany scheme was founded upon a foodstore to catalyse the evening economy (e.g. cinema and restaurants) it also sought to provide an improved environment to encourage retail investment in higher order comparison shopping. Clearly that scheme (or future scheme) requires considerable investigation and effort to drive it forward. The recent extension approval for Tunbridge Wells town centre is instructive as it will inevitably strengthen the function of Tunbridge Wells and cement the existing outflow of spend from the Tonbridge area.

Whilst it could easily be argued that the introduction of further out-of-centre retailing would inhibit the opportunity to secure occupiers for a future town centre development (at Botany) in practice this is folly because the occupier profile sought here are very unlikely to represent a good fit in the town centre or would indeed secure a material uplift in the patronage and vitality of the town centre.

We therefore conclude that (whilst the Council should urgently focus upon how they will deliver upon the AAP objectives to provide development opportunities to increase the role and vitality of the town centre) there is no credible short to medium-term prospect of the Botany site moving forward and no evidence that there would be any material overlap in terms of target occupiers. In summary, there is no robust evidence to argue that there would be a material extent of impediment to the realization of planned investment.

*Give weight to wider factors to assist the planning balance exercise*

In the event that there is adverse impact but it falls below the threshold of significant adverse, the NPPF instructs that a planning balancing exercise be undertaken to help reach a judgment about whether the development can be found acceptable in planning terms. Clearly there will be adverse trading impacts on the town centre in the short-term, but the impacts of the proposal itself are likely to be limited in scale and effect. The planning requirement to deliver a stronger town centre are compelling and the AAP has identified a number of sites to accommodate future development including Botany. There is no compelling evidence to suggest that the proposal will result in material impediment to delivering planned investment in the centre.

The NPPF makes clear that significant weight should be afforded to economic development, and we note that the applicant identifies that the proposed development will create an additional 72 FTE jobs. The site is currently vacant so this represents uplift, albeit that this should account for potential job losses in town centre shops. In

reality, we conclude that it is likely that there will be a modest net increase in retail employment in Tonbridge. We also note that the development will generate Business Rates and this can be afforded weight. We conclude that whilst the development will result in adverse impacts, it will not reach the threshold of significant adverse and the potential job creation weighs in favour of the proposal.

### Planning Conditions

The applicant sets out three planning conditions which control the proposed use of the retail units (1A-1D). The wording for unit 1C and 1D is bespoke to the requirements of their intended named occupiers. We are content that the general condition is appropriate for the use of bulky retail trades and precludes the opportunity for uses such as fashion clothing or footwear which would typically be directed to town centres.

The proposed condition for unit 1C is also generally acceptable as it provides a further opportunity for use by Go Outdoors (or a bulky use as a fallback). There is however a need to propose a minor amendment which we address in red text below.

The proposed condition for unit 1D is not acceptable in its current form as it could provide the opportunity for unfettered comparison use. As such, we propose an amendment in red text below. It is also important to introduce two further conditions to control future mezzanine development and also in relation to the use (and future use) of Unit 1E. We also note the applicant's comments in respect of local employment and suggest a condition where this approach could be clarified and then reviewed. We therefore recommend the following planning conditions which should be discussed with the applicant:

*"The use of the retail warehousing hereby approved shall be limited to the retail sales of DIY home and garden products, hardware, self-assembly or pre-assembled furniture, household furnishings, floor coverings, electrical goods, motor accessories and motor vehicles office equipment and supplies, bicycles, pets, pet food and drink and pet products, camping equipment and computer equipment."*

*"Unit 1C shown edged green on plan xx shall additionally be permitted to be used for the sale of "tents, camping and caravanning equipment and accessories, outdoor pursuit equipment and accessories (including walking, climbing, skiing, cycling, fishing, running and horse riding) and associated protective/insulative clothing and footwear related to the sale of these clothing and footwear items where it (in aggregate) does not equate to more than 20% of the net retail floorspace. The sale of clothing and footwear shall only take place when the principal use of the unit is for the sale and display of tents, camping and outdoor pursuit equipment and accessories."*

*"Unit 1D shown edged purple on plan xx shall additionally be permitted to be used for variety retailing including the retail sale of food and drink goods from an area not exceeding 30% of the net retail floorspace, and otherwise shall be used for the sale of non-food comparison goods. It shall not be used for the principal purpose of the sale and display of clothing and footwear."*

*"Notwithstanding the provisions of Article 2A of the Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2006 (or any Order replacing or superseding that Order), no mezzanine floors or other internal mechanism to create additional floorspace above ground floor level shall be installed at any time other than those approved by this application without express approval from the local planning authority."*



*"The retail units hereby approved shall not be subdivided into units of below 500 square metres."*

*"Notwithstanding the submitted details, unit 1E shall be devoted to an A3 use only. The provisions of Part 3, Class A and Class C of Schedule 2 of Article 3 of the Town and Country Planning (General Permitted Development Order) 1995 (as amended) shall not apply to unit 1E (ie. planning permission will be required for any change of use to A1 or A2 from A3).*

*"Prior to the commencement of development, a scheme which details the proposed methodology to maximize prospects for local employment shall be submitted to and agreed in writing. Details within the scheme shall be implemented by end occupiers and maintained thereafter. The applicant shall then provide a verification report within 12 months of first occupation to demonstrate the effectiveness of the scheme."*

### **Our Conclusions and Advice to TMBC**

We are content that the applicant has reflected on the Council's positive approach to development management to allow them an opportunity to justify their development which will deliver employment and investment.

Whilst there are adverse impacts as a consequence of the development, these can be mitigated by use of planning conditions and weight can be afforded to economic development on a vacant brownfield site. We conclude that subject to the conditions proposed above that the necessary mitigation can be achieved, and the potential for local employment can be maximized.

On this basis, the development does not result in any material conflict with the retail planning requirements of the NPPF or the Development Plan. As such we can recommend that the current suite of applications is justified in retail planning terms and can be capable of being supported. We trust that the above is of assistance to the Council, the applicant and its agent.

