

WARD: Hartcliffe CONTACT OFFICER: Anna Penn
SITE ADDRESS: Imperial Park Wills Way Bristol

APPLICATION NO: 15/04997/X Variation/Deletion of a Condition
EXPIRY DATE: 25 November 2015

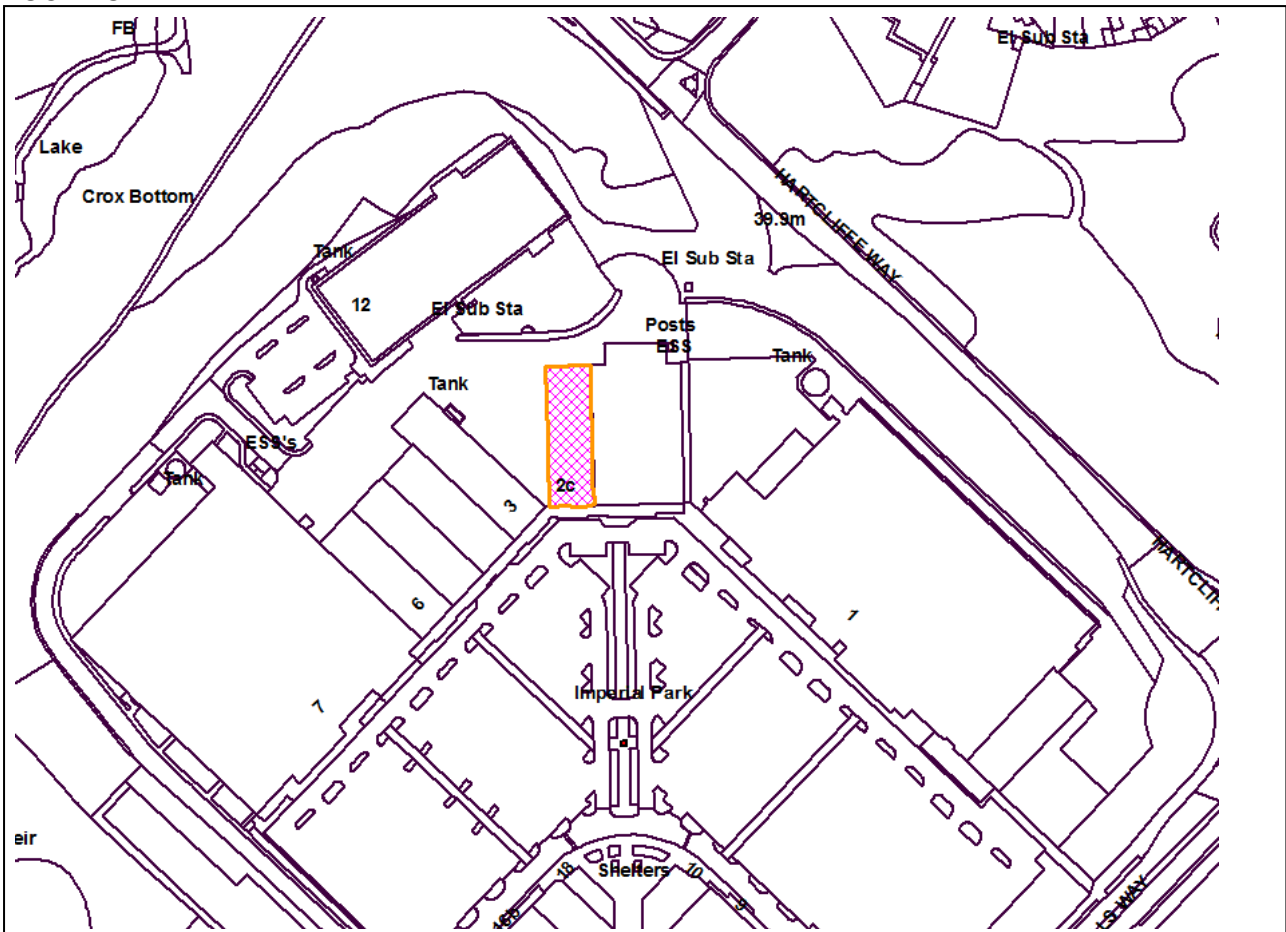
*Application for removal or variation of a Condition 4 following grant of planning permission
Application Reference Number: 02/03270/F/S In order to enable Hobbycraft to occupy the unit.*

RECOMMENDATION: Refuse

AGENT: Montagu Evans
Montagu Evans LLP
5 Bolton Street
London
W1J 8BA
APPLICANT: Junction Nominee 1 And Junction
Nominee 2 Ltd
C/o Agent

The following plan is for illustrative purposes only, and cannot be guaranteed to be up to date.

LOCATION PLAN:



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SUMMARY

Permission is being sought by Hobbycraft to vary a planning condition which would enable them to occupy Unit 2C. This unit, in common with a number of other units within this out of centre retail park, is limited to the sale of bulky goods only. Hobbycraft are a retailer of arts and crafts products. The unit has been fitted out and is ready to start trading in late March. The application is being reported to Committee as the proposal conflicts with national retail planning policy and Members need to carefully assess the policy implications of the scheme.

THE APPLICATION SITE

The application relates to a retail unit (Unit 2C) within Imperial Park, an established out of centre retail park within the Hartcliffe area of the city. Until November 2015 the unit was occupied by Wren, a kitchen showroom. The unit has a floor area of 937 square metres on the ground floor and a mezzanine of 592 square metres. Parking for over 1,000 cars is available across the whole of the retail park to the front of the site. Imperial Park is a thriving retail park which currently enjoys a low vacancy rate. There are a large number of bulky goods retailers including B&Q, Argos, Carpert Right, SCS Sofas, B&M Bargains, The Range, DW Sports, Benson Beds, Home Sense and Just Pets. There are also 3 eat in food outlets (Pizza Hut, Subway and Angel Berry Frozen Yoghurt) and a M&S Simply Food and cafe. There are two clothing retailers (Next and Peacocks), a hairdresser and a Boots pharmacy.

RELEVANT PLANNING HISTORY

The planning history of the Imperial Park retail complex dates back to 1994. The first buildings on site were restricted by planning condition to (a) non-food retail electrical goods, do it yourself goods, furniture and carpets and (b) a warehouse club selling predominantly non-food goods in bulk to paid up members only. The reason for this restriction was to accord with retail and traffic impact studies and to ensure that there would be no adverse impact on existing town or local centres.

02/00708/F Planning permission was granted in August 2002 for the erection of a building (Units 2A, 2B and 2C) for Health & Fitness (Use Class D2) or retail (Use Class A1) on the ground floor and retail at first floor within Units 2A & 2B plus retail within Unit 2C. (02/00708/F). The application was subject to a number of conditions including the following:

Condition 3 "The retail floorspace hereby permitted in respect of units 2A and 2B shall be limited to the mezzanine floor of those units and be limited to sports goods only and not less than 50% of the floorspace devoted to sports goods shall be used for the sale, display and testing of sports equipment unless otherwise agreed in writing by the Local Planning Authority."

Condition 4 " Within ten years of the date of this permission, the ground and mezzanine floors of units 2A, 2B and the ground floor of unit 2C can alternatively be used for the retail sale of non-food bulky goods i.e. electrical goods, do it yourself goods, furniture and carpets only." The unit was initially occupied by Allied Carpets prior to being occupied by Wren Kitchens. Officers are satisfied that the unit has been in retail use (bulky goods only) prior to the cessation of ten years i.e. 14 November 2012.

Unit 5: Planning permission was granted in 2014 for the use of the unit as Use Class A1 including the sale of food and drink, other convenience and comparison goods and an ancillary cafe. The unit is occupied by Marks & Spencer Simply Food (13/05167/F). The permission is subject to a number of conditions including a limit on the net sales area (not to exceed 650 square metres) and a restriction on the range of goods sold including no clothing and footwear, books, toys or fashion

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accessories. The reason was to ensure that there would be no adverse impact on existing town or local centres.

15/06117/A An application by Hobbycraft for 6 no. illuminated and non-illuminated signs on Unit 2C is currently under consideration. These signs have already been installed.

THE APPLICATION

Permission is sought to vary a condition 4 (of planning permission 02/00708/F) under Section 73 of the 1990 Planning Act to vary the range of goods that can be sold from Unit 2C, to enable Hobbycraft to occupy the building. Hobbycraft specialises in arts and crafts products including craft kits, papercraft, bridal arrangements, picture frames and mounts, needlecraft, model making kits and floral kits. The unit will provide up to 30 full and part time jobs. Hobbycraft do not require the existing mezzanine and this is not part of the proposal. It is understood that the mezzanine floor will be retained but not used.

The application is supported by a Planning and Retail Impact Assessment (P&RIA). This statement clearly states that Hobbycraft has an established business model which means that they do not operate in any town centre locations. Furthermore, it states that "Hobbycraft trade exclusively from retail warehouse and garden centre locations." The business relies on site prominence and visibility together with access from strategic A roads.

The application initially sought to vary condition 4 to:

"Unit 2C shall be used for the retail sale of non-food bulky goods i.e. electrical goods, do it yourself goods, furniture and carpets and for the retail sale of arts, crafts, modelling, home baking items, confectionery, stationery, hobbies and party goods, materials, products and items, gifts and associated items for craft workshops exhibitions, display."

Officers have obtained independent retail planning advice that raises significant concerns that the proposal fails to pass the sequential test. This has resulted in the extensive correspondence with the applicant's agent, the submission of a revised Retail Impact Assessment and changes to the proposed wording of the planning conditions.

In order to allay concerns that the unit may be occupied by a retailer that solely sells confectionery or stationery, the applicant now proposes to amend Condition 4 as follows:

"Unit 2C shall be used for the retail sale of non-food bulky goods i.e. electrical goods, do it yourself goods, furniture and carpets and for the retail sale of arts, crafts, modelling, home baking items, confectionery, stationary, hobbies and party goods, materials, products and items, gifts and associated items for craft workshops exhibitions, display only where they form part of an overall mix of products sold by a retailer of arts and crafts products."

Hobbycraft are proposing an additional condition that would restrict the sale of Hobbycraft goods to the ground floor only, excluding the mezzanine floor:

"Notwithstanding Condition ** above, the retail sale of arts, crafts, modelling, home baking items, confectionery, stationery, hobbies and party goods, materials, products and items, gifts and associated items craft workshops exhibitions, display sale shall not exceed 937 sq. m and be limited to the ground floor only."

The applicant is now also proposing a personal permission which would limit the first occupation of the unit to Hobbycraft only:

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"The occupation of Unit 2C shall be first by Hobbycraft and no other retailer, without the further grant of planning permission."

The applicant has submitted a revised Retail Impact Assessment in January 2016 and further correspondence justifying the proposal.

RESPONSE TO PUBLICITY AND CONSULTATIONS

A Site Notice was displayed. No representations have been received.

OTHER COMMENTS

Transport Development Team: "I have no objections to this proposal. The likely increase in vehicle movements is not going to have a material impact on the highway."

RELEVANT POLICIES

National Planning Policy Framework – March 2012

Bristol Core Strategy (Adopted June 2011)

BCS1 South Bristol
 BCS7 Centres and Retailing

Bristol Site Allocations and Development Management Policies (Adopted July 2014)

DM1 Presumption in favour of sustainable development
 DM7 Town centre uses
 DM8 Shopping areas and frontages
 DM9 Local centres
 DM23 Transport development management

KEY ISSUES

(A) IS THE PROPOSED TOWN CENTRE RETAIL USE ACCEPTABLE IN THIS OUT OF CENTRE LOCATION?

The key issue in the determination of this application is whether the proposed retail occupier would have an impact on the retail vitality and viability of existing town centres and local centres. The National Planning Policy Framework (NPPF) provides the framework for considering whether a proposal is acceptable in terms of retail policy. In Paragraph 23, local planning authorities are advised to adopt policies that promote town centre environments. The main thrust of the NPPF is to promote a "town centre first" approach. New retail development should therefore be focused on promoting competitive town centres.

The application site is located in an out of centre location, some distance from established South Bristol local centres in Bedminster, Filwood, Totterdown, Knowle and Bishopsworth. Paragraph 24 of the NPPF states that local planning authorities should apply a sequential test to applications for town centre uses that are not within an existing designated local centre. In this case, the proposed occupier is considered to be a retail use that would normally be found in town centre locations rather than in out of town retail parks selling bulky goods.

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The NPPF (paragraph 26) requires that an impact assessment should be carried out for retail, leisure and office development outside of town centres. The NPPF identifies that planning applications should be assessed against the following impacts on centres:

- 1) The impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- 2) The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.

NPPF paragraph 27 states that when an application fails to satisfy this sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused.

The NPPF does not require impact assessments to be carried out for retail proposals less than 2,500 sq.m unless locally set thresholds are less. In this case, Policy DM7 of the Site Allocations and Development Policies (2014) states that retail developments of 500 square metres or more in all locations outside primary shopping areas or local centres will require an impact assessment. Policy DM7 re-iterates the town centre focus contained within the NPPF. It states:

"Out of centre development of main town centre uses will only be acceptable where:

- 1) No centre or edge of centre sites are available and the proposal would be in a location readily accessible on foot, by cycle and by public transport, or
- 2) The proposal is of a small scale and aimed at providing for local needs.
- 3) In assessing the availability of centre and edge of centre sites, alternative formats for the proposed uses should be considered.

Retail, leisure or office development outside of centres will not be permitted if:

- 1) It would be liable to have a significant adverse impact on the vitality, viability and diversity of existing centres; or
- 2) It would impact on existing, committed and planned investment."

In this case, the proposed floorspace at 937 square metres is well above the locally set threshold of 500 square metres and an Impact Assessment is required. The applicants' first Impact Assessment only focused on centres within South Bristol, including Symes Avenue, Filwood Broadway, Wells Road including the Broadwalk Centre and Bedminster. As the initial P&RIA excluded Bristol city centre, including Broadmead and Cabot Circus, the applicant was asked to include the city centre within the sequential test. This subsequently confirmed that there were no suitable vacant retail units within the city centre of a sufficient size to meet Hobbycraft's requirements. Two vacant retail units of a suitable size were found in South Bristol - one in St Catherines's Place, off East Street in Bedminster and the other within the Broadwalk Centre in Knowle. The unit in St Catherines's Place has been discounted because it forms part of a larger site which is due to be redeveloped, subject to completion of a Section 106 agreement (Ref: 13/05616/F & 14/03131/F). This argument is accepted by Officers. However, the vacant unit within the Broadwalk shopping centre has been empty for a number of years. This unit has been rejected by the applicant for reasons which will be set out later in this report. These reasons are not accepted by the Council's retail consultant as will be elaborated below. In these circumstances where there is an available vacant retail unit within an established local centre, the principle of a town centre retail use in an out of centre location cannot be supported.

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(B) AN ALTERNATIVE VACANT RETAIL UNIT WITHIN THE BROADWALK SHOPPING CENTRE, KNOWLE

The former Coop unit within the Broadwalk centre has been rejected by the applicant for a number of reasons. In the original Retail Impact Statement it states that "a unit in this location would not be able to benefit from the critical mass of attraction and there would be no drive past trade.... Hobbycraft do not trade from town centre stores and therefore this unit does not represent a suitable or viable alternative to the proposed site."

The advice from the Council's retail consultant is as follows: "Whilst we would agree with Montague Evans (ME- the applicants' agent) that most of the vacant units in the Broadwalk Shopping Centre are too small to accommodate the proposed development, the remaining part of the former Co-op unit (adjacent to the new B&M store in the other part of the unit) is large enough.

Whilst it must be noted that Hobbycraft do not operate stores from city, town and district centres, we find it hard to accept this analysis from ME. The decision by Hobbycraft not to open 'town centre' stores is their own business decision and does not sit comfortably with the spirit of the sequential test which asks retailers to follow a town centre first approach and be flexible over scale and format. ME's comments above about Hobbycraft developing an ideal store format are no doubt correct although the comments suggest a lack of flexibility.

In any event, the Broadwalk Shopping Centre has been able to attract a number of national multiple retailers including B&M, Brighthouse, Iceland, Wilkinsons and 99p Stores. These retailers have chosen the shopping centre for their stores and are clearly able to operate viable business.

Within the defined 'town centres' assessed by the applicant, we are in agreement with the conclusions reached by the applicant except for the former Co-op unit in the Broadwalk Shopping Centre which is available and large enough to accommodate the proposed development and has only been dismissed on the basis of the self-imposed business requirements of Hobbycraft. On this basis, we do not consider that the proposal has passed the sequential test although the Council, as decision-maker, will need to balance this conclusion against all other material planning considerations when reaching a conclusion on this application."

When asked to elaborate further on why this unit is unsuitable, Montagu Evans state:

- "- Wells Road provides a local function and has a localised catchment area, which does not meet the catchment profile for Hobbycraft;
- The unit is in a secondary retail location with limited visibility and no passing trade;
- The unit is only available for eight years as a sub-lease. This does not provide the retailer with sufficient time to invest in the unit, cover fit-out costs, etc.;
- The adjacent retailers are not complementary to the Hobbycraft operation."

The Council's retail consultant has further advised in relation to the vacant Co-op unit:

- The length of the sub-lease. Montagu Evans (ME) suggest that, at 8 years, the length of the sub-lease from the Co-op is not sufficiently long to make the investment viable. No information is provided to justify this statement and it should be noted that Hobbycraft are willing to take a 10 year lease at Imperial Park which we do not consider to be materially different to the availability at the Broadwalk Centre. In any event, there does not appear to be any reason why the lease could not be renewed after this 8 year period.
- The identity of the existing retailers at the Broadwalk Centre. It is suggested that the existing retailers at the Broadwalk Centre (which ME describe as budget/bargain retailers) serve a different customer base than Hobbycraft. No evidence is provided to justify this statement and in any event I do not consider that this is a reasonable statement regarding 'suitability'. An attractive feature of

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'town centres' is the variety of retailers present and just because another retailer may serve a different market to Hobbycraft this does not justify Hobbycraft from discounting this location. In any event, there are examples of Hobbycraft locating next to discount retailers across the UK.

- The unit is located in a covered shopping centre with no visibility from the High Street. This appears to be an example of the self-imposed requirements from Hobbycraft and this situation has not stopped a number of other successful and well-known retailers from locating in the Broadwalk Centre.

- The existing unit is too big for Hobbycraft. This statement is made on the basis of a comparison between the size of the available unit at Imperial Park and the former Co-op unit. It is therefore an artificial comparison as the Imperial Park unit is of a specific size and there are different sizes of Hobbycraft units across the UK, some of which are similar to the Broadwalk Centre unit. The application site is 937sq m ground floor area and the Broadwalk unit is 1,226sq m ground floor area. Paragraph 3.4 of the ME sequential test report notes that "However, it is important to note that the trading format is not fixed. Hobbycraft are prepared to consider a range of ground and first floor/mezzanine combinations provided that the majority of the sale space is at ground floor."

- Existing representation of national retailers. ME make the point that Hobbycraft chose locations where there are other national retailers with a comparable type of trade draw and store representation. They suggest that these retailers are fashion, homeware and "quality bulky goods" retailers and Marks & Spencer Simply Food. Again this appears to be a self-imposed requirement of Hobbycraft and ME only give the example of the latest five stores opened by Hobbycraft. We have investigated the neighbouring retailers to other Hobbycraft stores in the UK and whilst the above types of retailer are present in some of these other locations, there are also many examples of Hobbycraft locating next to discount/budget retailers too.

Overall, we do not consider that the latest analysis from ME proves that the vacant former Co-op unit in the Broadwalk Centre is not suitable for the proposed use. ME have consistently made the point that Hobbycraft do not occupy 'town centre' locations. This may be so, but we consider that this is a self-imposed requirement of Hobbycraft and is not within the spirit of the sequential test, particularly as the Broadwalk Centre has retail occupiers who are able to locate in both town centre and out of centre locations/formats. Therefore, we consider that the compliance of this proposal with the sequential test will come down to the weight which the City Council wishes to place upon the self-imposed business requirements of one particular retailer."

In response to this, Hobbycraft state in further correspondence that:

"Lease Length.

Hobbycraft have a requirement for a minimum lease term of 10 yrs or more. In the last 5 yrs we have not taken a lease of less than 15 yrs in over 30 new store acquisitions. Our Private Equity owners, Bridgepoint, do not permit us to take a shorter lease length than 10 years as this would affect the financial viability of the investment.

Identity of Existing Retailers in Broadwalk Centre

The Broadwalk is now, very clearly, a discount location and whilst we do trade alongside discount retailers at various locations, the tenant mix is such that the overall retail offer is good quality with a variety of retailers to attract and support the Hobbycraft customer.

The unit is located within a covered shopping centre with no visibility

Our standard requirement is for a store with good visibility to attract passing trade as well as our destination shopper. All of the stores we have taken since 2009 have good visibility including from the road and the car park.

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Size of unit

As it happens, the largest trading store we have is Bristol Cribbs Causeway which was 1,415 sqm trading. Even though it is an established store and within our Top 10 stores list, it has recently been reduced to 1,075 sqm as the store is felt to be too large and no longer meeting our customer requirements. Setting aside the fact that a larger store does not meet our business requirements, if we were to take a store larger than we need, this space would be costly to run as rent and rates would still be paid on the space and we would need to heat it, light it and fit it out to an acceptable level to satisfy health and safety. Setting aside the fact that we would be presenting to our customers a sub-optimal Hobbycraft store, the economics would compromise the viability of the store and therefore the Hobbycraft Board would not approve such a proposal. Whilst we can compromise on some areas this would be a massive leap too far from our business model highlighted by our current programme of store size rationalisation."

It is clear that there is a difference in retail opinion between the two parties over the suitability of the vacant Broadwalk Unit. The advice from the Council's retail consultant is that the self-imposed business requirements of Hobbycraft to locate in out of centre locations does not comply with the sequential test. Officers would draw Members attention to a number of planning appeals across the country where Hobbycraft stores at out of centre locations, have been dismissed on appeal. Inspectors have noted that Hobbycraft specifically exclude town centre sites and that this fundamentally conflicts with the sequential test. Members will need to carefully consider whether there are any other material planning considerations that need to be weighed in the balance that seek to outweigh any harm caused.

(C) OTHER MATERIAL CONSIDERATIONS

The applicant has proposed to offer a planning condition that would, in effect, make any planning permission personal to Hobbycraft only. This would mean that any other town centre retail occupier would need to apply for planning permission to occupy Unit 2C in the event of Hobbycraft vacating the unit. The national Planning Practice Guidance states that such conditions are rarely acceptable as planning permissions should run with the land and not with the occupier. Officers would not advocate the imposition of a personal permission. It would be difficult for the Council to resist future proposals for town centre retail uses within out of centre locations across the city.

The agent cites the following benefits that would arise from the development including:

- "- the creation of up to 30 full and part time jobs;
- where possible, employment of local people;
- full training including training in use of arts and craft products;
- regular craft demonstrations in store that may involve local community groups and schools."

Officers are of the opinion that the proposed job creation benefits do not outweigh the harm that would be caused to the viability of existing town and local centres such as Broadwalk, in Knowle. This is particularly the case as similar jobs would be created by any occupier of Unit 2C. The former Co-op unit in Broadwalk has been vacant for over 3 years and would significantly benefit from a new town centre retail occupier. Moreover, the Imperial Park retail park is currently very vibrant in retail terms, with only 2 small vacant units located to the south west away from the main retail complex. If the area was struggling to attract major national bulky goods retail occupiers, with high vacancy rates, there may be a case to argue for an alternative retail occupier. This is not the case here.

CONCLUSION

It is clear that there is a suitably sized vacant unit within the Broadwalk Centre, a designated Local Centre. The reasons given for dismissing this unit are based on Hobbycraft's business model which

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explicitly states that they do not locate within town centre locations. This clearly flies in the face of established national retail planning policy and up to date development plan policy. Officers are aware of recent appeal decisions against Hobbycraft where the Inspector has noted that the company's policy of excluding town centre sites and therefore "the sequential test has little prospect of success under these circumstances." It is recommended that planning permission is refused.

COMMUNITY INFRASTRUCTURE LEVY

How much Community Infrastructure Levy (CIL) will the development be required to pay?

In the absence of the creation of any additional floor space, there is no CIL requirement associated with this development.

RECOMMENDED REFUSE

The following reason(s) for refusal are associated with this decision:

Reason(s)

1. The submitted retail assessment fails to satisfy the requirements of the sequential test as set out in the National Planning Policy Framework (NPPF) and DM7 of the Site Allocations and Development Management Policies 2014, as there is a sequentially preferable, suitable and available alternative within the Broadwalk Shopping Centre in Knowle. This existing site could accommodate retail development that might otherwise locate within the Broadwalk Shopping Centre. In so doing, this proposal would lead to the loss of existing and potential retail investment, undermining the growth of the city's designated local centres contrary to the objectives of the National Planning Policy Framework, Bristol Core Strategy 2011 (Spatial visions and objectives) and the Site Allocations and Development Management Policies 2014.

Advice(s)

1. Refused Applications Deposited Plans/Documents

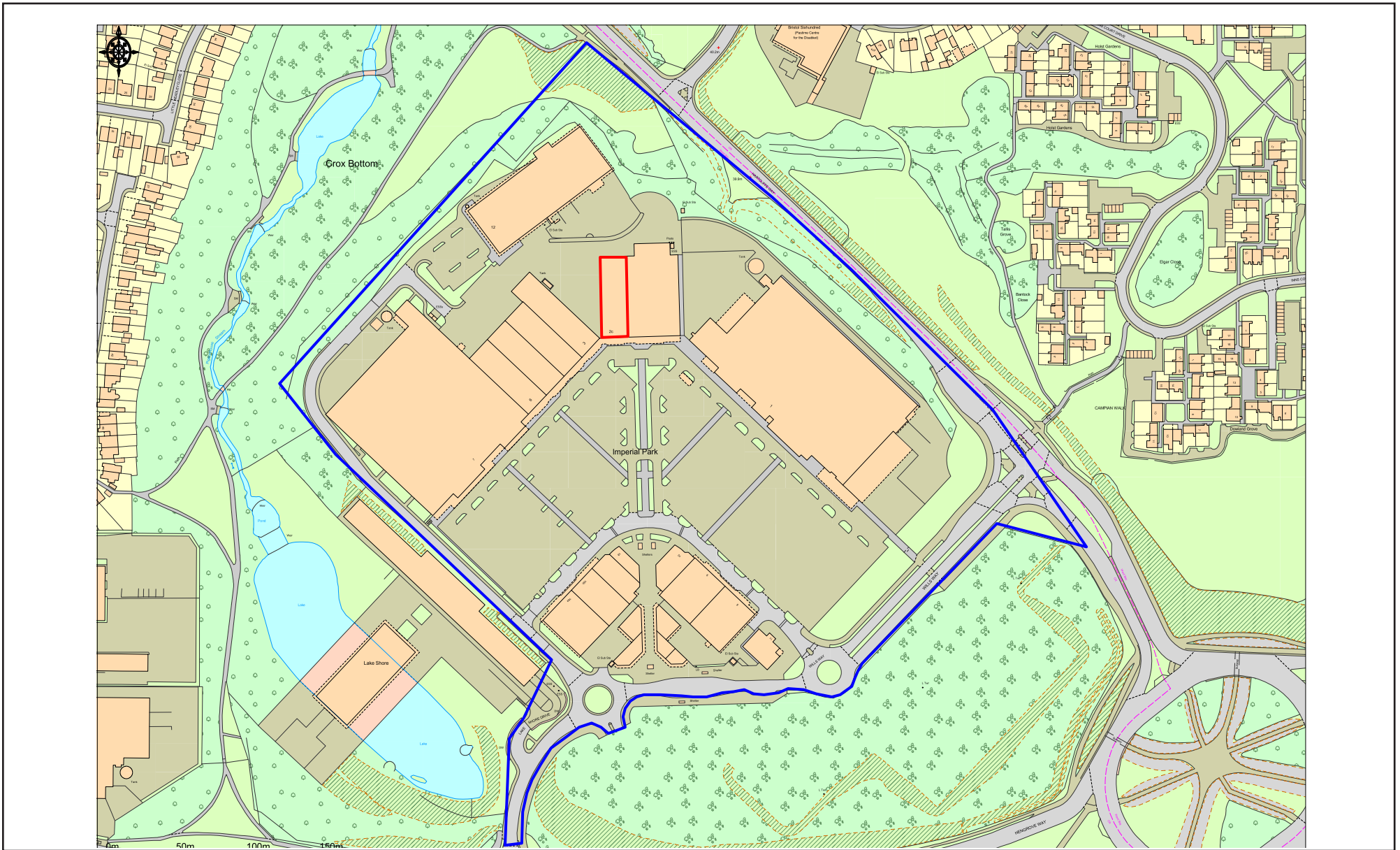
The plans that were formally considered as part of the above application are as follows:-

Application Form, received 30 September 2015
 Site Location Plan, received 30 September 2015
 Application Cover Letter, received 30 September 2015
 Planning and Retail Statement (Final), received 30 September 2015
 Transport Statement, received 30 September 2015

BACKGROUND PAPERS

Transport Development Management

23 November 2015



Site Plan:
Unit 2c, Imperial Park, Bristol



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