

Delegated Application Report**Target Date:** 24/8/22 (ext)**Address:** Brunel Retail Park**Application No:** 220110/NMA**Proposal:** Minor amendment to conditions 12 & 14 of planning permission 131106 to change the range of goods being sold in units 3A, 3B and 7 (formerly Units 8/9 and 3 respectively) (amended)**Case Officer:** Alison Amoah

Proposal: The proposed changes to Condition 12 and 14 are to accommodate:

- The relocation of B&M from current Unit 8 (former part of Units 1-2) to Units 3A-3B (former 8-9) to reflect their current trading position in Unit 8;
- A new retailer for current Unit 7 (former Unit 3)

The reasons given by the applicant for the proposed amendments are to enable the existing occupier B&M to 'upscale' into a unit of a more suitable size to meet their operational requirements. It is not intended that the change would affect the types of goods sold.

In terms of condition 14 the applicant has proposed amendments to condition 14 as set out below, which follows discussions and amendments during the course of the application. Such amendments transfer the restrictions of condition 14 to Units 3A/3B for B&M, albeit this results in some increases in net sales floor area for the restricted goods.

Old Unit Number (as per ref. 131106)	New Unit Number (as per ref. 201842)	Current Occupier
11	1	Halfords
10	2	Pets at Home
8/9	3a	Vacant (proposed for relocation of B&M)
8/9	3b	Vacant (proposed for relocation of B&M)
6/7	4	Vacant
5	5	Vacant
4	6a	Dreams
4	6b	Shoe Zone
3	7	Vacant
1/2	8	B&M
1/2	9	Vacant
N/A	10	Subway
N/A	11	Costa

Condition 12 is currently worded as follows:	The proposed amendments to Condition 12 are indicated below (strikethroughs and red text):
12. Unit 3 hereby permitted shall not be used for the sale of goods other than: ambient food and drink goods; household goods; pharmaceutical goods and toiletries; DIY and garden goods; furniture and home furnishing; floor coverings; electrical and photographic goods; automotive parts and accessories; cycles, products for and including domestic pets, sports goods, leisure goods, clothing and footwear and ancillary items and for no other purpose within Class A1 of the Town and Country Planning (Use Classes) Order 1987. Unit 1-2 hereby permitted shall not be used for the sale of goods other than: DIY; furniture; home furnishings; floor coverings; electrical and photographic goods; automotive parts and accessories; cycles; products for and including domestic pets; sports goods; leisure goods; ambient food, drink and confectionary; toys; toiletries; clothing and footwear and ancillary items and for no other purpose within Call A1 of the Town and Country Planning (Use Classes) Order 1987. All other non-food retail premises hereby permitted shall not be used for the sale of goods other than DIY, furniture, home furnishings, floor coverings, electrical and photographic goods, automotive parts and accessories, cycles, products for and including domestic pets, sports goods, leisure goods, clothing and footwear and ancillary items and for no other purpose within Class A1 of the Town and	~~Unit 3~~ Unit 3a/3b (formerly Units 8/9) hereby permitted shall not be used for the sale of goods other than: ambient food, drink and ~~drink goods~~ confectionary; toys; household goods; pharmaceutical goods and toiletries; DIY and garden goods; furniture and home furnishings; floor coverings; electrical and photographic goods; automotive parts and accessories; cycles, products for and including domestic pets, sports goods, leisure goods, clothing and footwear and ancillary items and for no other purpose within Class A1 of the Town and Country Planning (Use Classes) Order 1987. E(a) (Display or retail sale of goods, other than hot food) of the Town and Country Planning (Use Classes) Order 1987 (as amended). ~~Unit 1-2~~ Unit 7 (formerly Unit 3) hereby permitted shall not be used for the sale of goods other than: DIY; furniture; home furnishings; floor coverings; electrical and photographic goods; automotive parts and accessories; cycles; products for and including domestic pets; sports goods and leisure goods; ~~ambient food, drink and confectionary; toys; toiletries; clothing and footwear and ancillary items~~ and for no other purpose within Class A1 of the Town and Country Planning (Use Classes) Order 1987. E(a) (Display or retail sale of goods, other than hot food) of the Town and Country Planning (Use Classes) Order 1987 (as amended). All other non-food retail premises hereby permitted shall not be used for the sale of goods other than DIY, furniture, home furnishings, floor coverings, electrical and photographic goods, automotive parts and accessories, cycles, products for and including domestic pets, sports goods, leisure goods, clothing and footwear and ancillary items and for no other purpose within Class A1 of the Town and Country Planning (Use Classes) Order 1987. E(a) (Display or retail sale of goods, other than

<i>Country Planning (Use Classes) Order 1987.</i> <i>Reason: As the site lies outside an existing shopping centre and to enable the local planning authority to control the range of goods to be sold to safeguard the vitality and viability of existing shopping centres, RBCS CS25 (Scale and Location of Retail, Leisure and Culture Development) RBCS CS26 (Network and Hierarchy of Centres)</i>	hot food) of the Town and Country Planning (Use Classes) Order 1987 (as amended). Reason: As the site lies outside an existing shopping centre and to enable the local planning authority to control the range of goods to be sold to safeguard the vitality and viability of existing shopping centres, RBLP Policy RL2 ~~RBCS CS25~~ (Scale and Location of Retail, Leisure and Culture Development) RBLP Policy RL1 ~~RBCS CS26~~ (Network and Hierarchy of Centres)
Condition 14 is currently worded as follows:	The proposed amendments to Condition 14 are indicated below (strikethroughs and red text):
14. (1) Not more than 3 retail units shall be used for the sale of clothing and footwear. (2) Within Unit 3 hereby permitted, the sale of ambient food and drink shall not exceed 20% of the net sales area, the sale of household and health and beauty goods shall not exceed 20% of the net sales area, and the sale of clothing and footwear shall not exceed 5% of the net sales area. (3) Within Unit 1-2 hereby permitted, the area of floorspace for the sale of food, drink and confectionary shall not exceed 150sqm, the area of floorspace for the sale of toys shall not exceed 100sqm and the area of floorspace for the sale of toiletries shall not exceed 80sqm. Reason: as the site lies outside the existing shopping centre and to enable the local planning authority to control the sale of these types of goods to safeguard the vitality and viability of existing shopping centres. RBCS CS25 (Scale and Location of Retail, Leisure	14. (1) Not more than 3 retail units shall be used for the sale of clothing and footwear. ~~(2) Within Unit 3 hereby permitted, the sale of ambient food and drink shall not exceed 20% of the net sales area, the sale of household and health and beauty goods shall not exceed 20% of the net sales area, and the sale of clothing and footwear shall not exceed 5% of the net sales area.~~ (23) Within Units 3a/3b (formerly Units 8/9) 1-2 hereby permitted, the net sales area to be used of floorspace for the sale of: (i) Ambient food, drink and confectionary shall not exceed 150435sqm; ~~the area of floorspace for the sale of~~ (ii) Toys shall not exceed 1100sqm; and (iii) and the area of floorspace for the sale of Household, pharmaceutical goods and toiletries shall not exceed 247sqm ~~80sqm~~. Reason: as the site lies outside the existing shopping centre and to enable the local planning authority to control the sale of these types of goods to safeguard the vitality and viability of existing shopping centres. RBLP Policy RL2 ~~RBCS CS25~~ (Scale and Location of Retail, Leisure and Culture

Objections Received (Summary):

Applications under S96A are not applications for planning permission, so are not covered by the publicity requirements as set out in the DMPO.

However, advice was sought from the Policy Manager who confirmed that the changes would be acceptable, subject to any increases in floorspace related to the sale of specific items of goods would need to be non-material in nature.

Relevant Planning History:

There is an extensive planning history for the wider Retail Park, summarised below:

94/00443/FD - Erection of non-food retail warehouses (A1) with ancillary service areas and car parking for 510 cars - Approved 23/12/1994 - *this included various conditions with controls over the number of units and sale of goods.*

131106/VAR - Variation of planning permission 94/00443/FD to exclude Unit 1-2 (PC World) Brunel Retail Park, Rose Kiln Lane, Reading, RG2 0HS from complying with conditions 12 and 14 - Approved 18/10/2013

170215/FUL - Works to Unit 4 including reconfiguration of existing mezzanine floorspace and insertion of additional mezzanine floorspace of 1,053sqm, the creation of an external display area of 465sqm and associated works including new fire doors - Approved 29/6/17 - this includes the following condition:

3. Range of goods and floorspace

Unit 4 shall not be used other than for the display and sale of DIY goods, furniture, home furnishings, floor coverings, electrical and photographic goods, automotive parts and accessories, cycles, products for and including domestic pets, and sport and leisure goods (which for the avoidance of doubt may include the display and sale of sports and leisure clothing and sports and leisure footwear provided that the display and sale of sports and leisure clothing and sports and leisure footwear does not exceed 50% of the net retail floorspace) and for no other purpose within Class A1 of the Town and Country Planning (Use Classes) Order 1987.

Reason: as the site lies outside an existing shopping centre and to enable the local planning authority to control the range of goods to be sold to safeguard the vitality and viability of existing shopping centres. RBCS CS25 (Scale and Location of Retail, Leisure and Culture Development) RBCS CS26 (Network and Hierarchy of Centres)

201842/FUL - Continued use of Units 1, 2, 3a, 3b, 4, 5 and 6a within Class E following consolidation of the Retail Park - Approved 15th July 2021 - This included the following conditions over numbers of units selling specific goods:

Condition 3:

"The 'Retained Retail Units' shall only be used for the following parts of Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other purpose: E(a) Display or retail sale of goods, other than hot food; E(b) Sale of food and drinks for consumption (mostly) on the premises; E(c) Provision of: E(c)(i) Financial services; E(c)(iii) Other appropriate services in a commercial, business or

service locality; and E(d) Indoor sport, recreation or fitness (not involving motorised vehicles or firearms)”

Condition 4:

“Any ‘Retained Retail Unit’ operating under E (a) use class, as defined in Condition 3, shall only be used for the retail sale of goods of DIY; furniture; home furnishings; floor coverings; electrical and photographic goods; automotive parts and accessories; cycles; products for and including domestic pets; sports goods; leisure goods; clothing and footwear; food and drink for consumption on the premises; and items that are ancillary to the main range of goods sold. No more than one of the Retained Retail Units shall be used for the sale of ambient food and drink and confectionary goods; household goods; pharmaceutical goods and toiletries; garden goods; toys; toiletries; and ancillary items for no other purpose within Class E of the Town and Country Planning (Use Classes) Order 1987”.

201853/FUL - Demolition of existing buildings. Erection of 2no. buildings for use within Classes E(g)(iii), B2 and B8, along with access and servicing arrangements, car parking, landscaping and associated works - Approved 15th July 2021 - a phased scheme. If only Phase one were implemented, then 201842 would come into play.

220145/FUL - Continued use of Units 4 and 5 within use class E(a) - Approved 25/7/22 (committee 20/7/22). This application proposes, in addition to goods already permitted to be sold at each unit, the sale of homewares, food and food and drink for consumption off the premises from an area of no greater than 840 square metres) and household goods (from an area of no greater than 280 square metres). This is in addition to the goods that were permitted to be sold at each unit under previous applications.

Appraisal:

The proposed amendments to the conditions would essentially shift restrictions regarding goods for sale and specific related floor areas to Units 3a/3b, the proposed unit to be occupied by B&M and remove the restricted goods from the list which could be sold from Unit 7 (former unit 3).

Originally Unit 3 (now Unit 7) had the following allowances (*original Condition 14 part (2)*), based on that unit’s net sales area of a total of 843sqm:

Health and beauty - max 20% of net sales area, which equated to 167sqm

Ambient food and drink - max 20% of net sales area, which equated to 167sqm

Clothing and footwear - max 5% of net sales area, which equated to 42sqm

Originally Unit 1-2 now 8/9 (current B&M) had the following allowances (*original Condition 14 part (3)*):

Food, drink and confectionary - 150sqm (max)

Toys - 100sqm (max)

Toiletries - 80sqm (max),

So if the allowances were combined this originally equated to:

Health, beauty and toiletries - 247sqm

Ambient food, drink and confectionary - 317sqm

Toys - 100sqm
Clothing and footwear - 42sqm

The proposed amendments to Condition 14 would lead to the following changes:

Health, beauty and toiletries - no change

Ambient food, drink and confectionary - 435sqm, an increase of 118sqm

Toys - 110sqm, an increase of 10sqm

Clothing and footwear - no change

Although there is a small increase of the area from which ambient food, drink and confectionary could be sold and a very small increase for toys, it is not considered that the proposed changes would cause any significant differing material effect with respect to existing retail centres and would therefore accord with relevant policy and would enable the retention of an existing retailer within the Retail Park.

Conclusion:

The overall change as proposed is therefore, considered to be an acceptable non-material alteration to the approved scheme.

Recommendation:

Approve non-material amendment subject to conditions. Although Section 96(A) of the Act does not allow for the original decision to be re-issued, it does allow the modification of, or imposition of, conditions. In this respect it is considered appropriate to impose an additional condition:

Amended Condition 12

Unit 3a/3b (formerly Units 8/9) hereby permitted shall not be used for the sale of goods other than: ambient food, drink and confectionary; toys; household goods; pharmaceutical goods and toiletries; DIY and garden goods; furniture and home furnishings; floor coverings; electrical and photographic goods; automotive parts and accessories; cycles, products for and including domestic pets, sports goods, leisure goods, clothing and footwear and ancillary items and for no other purpose within Class E(a) (Display or retail sale of goods, other than hot food) of the Town and Country Planning (Use Classes) Order 1987 (as amended).

Unit 7 (formerly Unit 3) hereby permitted shall not be used for the sale of goods other than: DIY; furniture; home furnishings; floor coverings; electrical and photographic goods; automotive parts and accessories; cycles; products for and including domestic pets; sports goods and leisure goods; and for no other purpose within Class E(a) (Display or retail sale of goods, other than hot food) of the Town and Country Planning (Use Classes) Order 1987 (as amended).

All other non-food retail premises hereby permitted shall not be used for the sale of goods other than DIY, furniture, home furnishings, floor coverings, electrical and photographic goods, automotive parts and accessories, cycles, products for and including domestic pets, sports goods, leisure goods, clothing and footwear and ancillary items and for no other purpose within Class E(a) (Display or retail sale of goods, other than hot food) of the Town and Country Planning (Use Classes) Order 1987 (as amended).

Reason: As the site lies outside an existing shopping centre and to enable the local planning authority to control the range of goods to be sold to safeguard the vitality and viability of existing shopping centres, RBLP Policy RL2 Scale and Location of Retail, Leisure and Culture Development) RBLP Policy RL1 (Network and Hierarchy of Centres)

Amended Condition 14

14. (1) Not more than 3 retail units shall be used for the sale of clothing and footwear.

(2) Within Units 3a/3b (formerly Units 8/9) hereby permitted, the net sales area to be used for the sale of:

- (i) Ambient food, drink and confectionary shall not exceed 435sqm;
- (ii) Toys shall not exceed 110sqm; and
- (iii) Household, pharmaceutical goods and toiletries shall not exceed 247sqm.

Reason: as the site lies outside the existing shopping centre and to enable the local planning authority to control the sale of these types of goods to safeguard the vitality and viability of existing shopping centres. RBLP Policy RL2 (Scale and Location of Retail, Leisure and Culture Development) RBLP Policy RL1 (Network and Hierarchy of Centres).

INFORMATIVES

1. This notice relates only to the changes to conditions 12 and 14 of the substantive planning permission (Ref:131106). It shall be read in the context of the substantive planning permission and is bound by all the conditions and obligations attached to that permission. That permission still stands and this notice (and any other notices issued under section 96a for this development) should be read together.

2. In reaching this decision, the local planning authority is satisfied that the changes proposed by this application do not constitute material changes to the approved planning permission.