

## 5<sup>th</sup> JUNE 2018 PLANNING COMMITTEE

5m 16/0705 Reg'd: 11.08.16 Expires: 10.11.16 Ward: HE  
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**LOCATION:** Sutton Green Garden Centre, Whitmoor Lane, Sutton Green, Guildford, Surrey, GU4 7QA

**PROPOSAL:** Change of use of land to an outdoor activity centre (D2 Use Class)(Retrospective).

**TYPE:** FULL

**APPLICANT:** The Vermeulen Partnership **OFFICER:** Barry Curran

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### **REASON FOR REFERRAL TO COMMITTEE**

The proposal is for the change of use of Green Belt land on a site area of 1.6 hectares therefore constituting a major development which falls outside of the scheme of delegated powers.

### **SUMMARY OF PROPOSED DEVELOPMENT**

This application seeks retrospective planning permission for the change of use of previous horticulture land in connect with Sutton Green Garden Centre in the Green Belt to an outdoor activity centre (D2 Use Class) with ancillary structures.

### **PLANNING STATUS**

- Green Belt
- Thames Basin Heaths SPA Zone (400M – 5KM)

### **RECOMMENDATION**

REFUSE planning permission and authorise formal enforcement proceedings.

### **SITE DESCRIPTION**

The application site comprises of land to the East of Sutton Green Garden Centre, which is accessed off Whitmoor Lane at the corner of Guildford Road within the defined Green Belt. Access to the activity centre is gained through the garden centre across an existing trackway. The site is heavily treed with numerous deciduous and conifer trees enclosing the play areas and central camp area consisting of temporary tents and a timber pergola.

### **PLANNING HISTORY**

Extensive. Of relevance;

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PLAN/2005/1298 - Certificate of lawfulness for existing use comprising a mixed use garden centre (A1 use) and agriculture use (agriculture use including horticulture and a Pick – Your- Own use), as defined on the attached red line location plan and associated key. – Permitted 26.05.2006

### **PROPOSED DEVELOPMENT**

Planning consent is sought to change the use of land in the Green Belt which was previously used as horticulture land and retain the current outdoor activity centre and ancillary structures.

### **CONSULTATIONS**

Planning Policy: Raises objection to the development as the material change of use of land represents inappropriate development in the Green Belt as per the NPPF. Noted that although the development brings economic benefit, in terms of employment, the Planning Officer should be satisfied that this benefit outweighs the harm to the Green Belt by way of the developments inappropriateness and any other harm to justify very special circumstances (11.05.18)

Highways Authority: No highway requirements (30.08.16)

Arboricultural Officer: Require details on trees removal and/or protection at application stage (01.09.16)

Drainage Officer: No comments raised

### **REPRESENTATIONS**

There have been 3 third party letters of objection received in relation to the application. The issues raised in these letters draw concern over:

- Impact on the openness of the Green Belt and therefore one of the primary purposes of the Green Belt;
- Visual impact of the development associated activities adversely affects the character and appearance of the rural area;
- Activities on site generate noise and disturbance to neighbours;
- Insufficient traffic management plans and associated dangers to the highway; and
- Inaccurate Design and Access Plan

### **RELEVANT PLANNING POLICIES**

National Planning Policy Framework 2012  
Section 3 – Supporting a prosperous rural economy  
Section 7 – Requiring Good Design  
Section 8 – Promoting healthy communities  
Section 9 – Protecting Green Belt land

Core Strategy Publication Document 2012  
CS1 – A spatial strategy for Woking Borough  
CS6 – Green Belt  
CS17 – Open space, green infrastructure, sport and recreation  
CS18 – Transport and Accessibility  
CS21 – Design

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### Development Management Policies DPD

DM3 – Facilities for Outdoor Sport and Outdoor Recreation

DM13 - Buildings in and Adjacent to the Green Belt

### Supplementary Planning Guidance

Supplementary Planning Document 'Outlook, Amenity, Privacy and Daylight' 2008

Supplementary Planning Document 'Design' 2015

Supplementary Planning Document 'Parking Provisions' 2018

## **PLANNING ISSUES**

1. The planning issues to be addressed in the determination of this application are; impact on the Green Belt and its openness, impact on the character of the surrounding area, impact on neighbour amenities, impact on parking/highway safety and impact on trees.

### Impact on Green Belt/Openness of Green Belt

2. The application site lies within designated Green Belt. The Woking Core Strategy 2012 Policy CS6 seeks to prevent inappropriate development in the Green Belt while Paragraph 87 of the National Planning Policy Framework (NPPF) identifies that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Inappropriate development is, by definition, harmful to the Green Belt. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In view of the presumption against inappropriate development, substantial weight will be attached to the harm to the Green Belt when considering planning applications concerning such development.
3. It is proposed to retain the existing use of the site for an outdoor activity centre and consolidation of activities within the site which is on defined Green Belt land. Policy DM13 of the Development Management Policies DPD 2016 states that *"unless very special circumstances can be clearly demonstrated, the Council will regard the construction of new buildings and forms of development other than those specifically identified on allocated sites in the Site Allocations DPD as inappropriate in the Green Belt"* [emphasis added]. This policy seeks to protect the openness and character of the Green Belt, exceptions to this are allocated sites in the Site Allocations DPD. The application site is not identified within this DPD and therefore the proposal constitutes a change of use and is therefore regarded as inappropriate development.
4. Paragraph 89 of the NPPF establishes that the construction of new buildings is inappropriate in Green Belt unless one of a number of exceptions apply. The exceptions include, under bullet point 2, the provision of *"...appropriate facilities for outdoor sport or outdoor recreation..."* as long as it *"...preserves the openness of the Green Belt and does not conflict with the purposes of including land within it"*. While the provision of appropriate buildings for outdoor sport and recreation would be regarded as exceptions to this inappropriateness, provided it preserves the openness of the Green Belt, paragraph 89 is exclusively concerned with the construction of new buildings.

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It does not apply and is not expressed to apply to any other form of development, including material change of use of land. Thus the second bullet point covers the construction of a building (for example, a pergola) as an appropriate facility for an existing outdoor recreational use, but it does not cover a material change in the use of land so as to create an outdoor recreational use. The NPPF policy, therefore, allows buildings in the Green Belt in association with outdoor recreation, but does not allow material changes in the use of land for such purposes, even if there will be no harm to openness.

5. Further to this, Paragraph 90 of the NPPF identifies other forms of development that are 'not inappropriate' providing that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. These include;
  - Mineral extraction;
  - Engineering operations;
  - Local transport infrastructure which can demonstrate a requirement for a Green Belt location
  - The re-use of buildings provided that the buildings are of permanent and substantial construction; and
  - Development brought forward under a Community Right to Build Order.

The courts have held that to be a closed list of exceptions. The material change of use of land is not included within those exceptions listed in Paragraph 90 and must, therefore, be considered as inappropriate development, in accordance with the NPPF.

6. On 5<sup>th</sup> March 2018, the Government published a consultation draft of a revised NPPF. The general approach to development within the Green Belt is largely unaltered. Under paragraph 145(e) of the consultation document, however, it outlines that the material change of use of land would not be inappropriate so long as the use of land preserve the openness of the Green Belt and not conflict with the purposes of including land within it. If such a change of use was not inappropriate there would be no need to demonstrate very special circumstances and, presumably, the planning balance of material considerations would shift accordingly.
7. It has to be noted, however, that at the time of considering this application, the consultation is still running and it is not clear when and if the suggested changes will be incorporated as amendments into the NPPF. In this context it would be pre-mature to pre-judge the process and therefore only very limited weight can be attached to the consultation draft of the revised NPPF.
8. Paragraph 88 of the NPPF explains that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The applicant has put forward no 'very special circumstances' as part of this application but it has to be noted that there are considerations that the NPPF and development Plan consider to weigh in favor of development in rural areas. Paragraph 28 of the NPPF supports sustainable growth and expansion of business and enterprise in rural areas in order to create jobs and prosperity – including visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service

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centres. Further to this, Paragraph 73 of the NPPF supports access to high quality open spaces and opportunities for sport and recreation which can make an important contribution to the health and well-being of communities (taking into account the need for such a recreation facility). This is further supported by Policy CS17 of the Core Strategy which seeks to provide opportunities for people to participate in and enjoy recreation and to facilitate effective access to the countryside and amenity that it offers. Policy CS1 of the Core Strategy 2012 encourages the provision of community facilities and development that provides jobs, but seeks to direct this type of development to sustainable locations such as the neighbourhood and local centres – where facilities and services are easily accessible to all relevant modes of travel. Development such as an outdoor activity centre, by its very nature can only realistically be located in open green spaces found outside urban centres most likely in Green Belt locations.

9. It appears as though the development would be in accordance with these aims outlined above and that the creation of recreational uses, the creation of jobs, associated with the activity centre and economic growth in rural areas is supported. Paragraph 81 of the NPPF states that LPAs should plan positively to enhance the beneficial use of the Green Belt, such as looking at opportunities to provide access, to provide opportunities for outdoor sport and recreation, to retain and enhance landscapes and visual amenity.
10. It is noted that while the development delivers a number of these benefits, it is not clear to what extent this is, with no supporting information submitted as part of the application to demonstrate this. In view of the limited detail submitted in support of this economic benefit, very little weight can be attached to the benefit of the outdoor activity centre. Furthermore, the weight that can be afforded to any economic benefit associated with a small scale business such as this would need to be assessed on its own merits and would need to demonstrate significant benefits to outweigh the fact that the development is, by definition, inappropriate development within the Green Belt.
11. One of the fundamental aims of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the most important attribute of Green Belts is their openness. There are a number of factors which contribute to a development's effect on the openness of the Green Belt. A number of these factors include the development's physical size and its visual impact. The outdoor activity centre includes a number of structures associated with its use. It is proposed to relocate some of these structures, many of which adopt a camouflaged exterior, to a more central location within the site. It has to be noted that the presence of the woodland results in a site that is not conspicuous within the wider area. The heavily treed margins and dense vegetation is such that the nerf play area, camp site, picnic area and archery range have little visual impact and limited effect on openness. The pergola and other physical structures would be centrally located (with the exception to the 2 portaloos along the eastern side) with no visual presence from outside the site and nevertheless would be viewed against the backdrop of the woodlands such that they do not encroach substantially into more open spaces beyond.
12. The material change of use of the land represents inappropriate development within the Green Belt and therefore harmful where very special circumstances to outweigh the benefits of the development, and therefore to justify the grant

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of planning permission, have not been demonstrated. Substantial weight must be attached to this harm to the Green Belt, notwithstanding the current consultation on revisions to the NPPF. The development is therefore contrary to provisions outlined in Section 9 of the National Planning Policy Framework, Policy CS6 of the Core Strategy 2012 and Policy DM13 of the Development Management Policies DPD 2016.

### Impact on Character of Surrounding Area

13. Policy CS21 states that new developments should “*respect and make a positive contribution to the street scene and the character of the area in which they are situated, paying due regard to the scale, height, proportions, building lines, layout, materials and other characteristics of adjoining buildings and land*”. This advice is echoed in Paragraph 59 of the National Planning Policy Framework where it points out that development should be guided by the local area. The application site is within the defined Green Belt and within an area of dense woodland.
14. The change of use of the land has occurred in a discrete area within the woodlands with the overall scale of the physical development considered small in the context of the woodland and the nature of the surrounding Green Belt. The use of the activity centre is year round but would be contained within opening hours ranging between 9.30am and 7.30pm which would be broadly in line with the adjacent garden centre. A number of ancillary structures, in line with the activity centre, are sought to be retained/relocated to a central position including tents, a pergola and portaloos. A total of 3 tents, 2 portaloos and an open sided timber pergola are located within the site and of a scale which is considered relatively small with the largest tent standing at a maximum height of 3.3 metres which is adequately screened by the surrounding woodlands. External materials on these structures include camouflage netting and canvas with the pergola constructed of timber posts both of which allow the structures to blend in inconspicuously with their surroundings.
15. As noted the development is well contained within the woodland area and, although the change of character is noticeable at close quarters, the effect from the wider public vantage points is limited. Parking associated with the activity centre is provided within the existing car park at Sutton Green Garden Centre which would, as such, be contained within an established car park with no further encroachment on the Green Belt to alter the character of the site.
16. With regards to the above, it is considered that the development does not cause harm to the character and appearance of the wider area given the secluded positioning of the existing structures as well as their external materials and modest scale. The development, therefore accords with provisions outlined in the National Planning Policy Framework, Policy CS21 of the Woking Core Strategy 2012 and Supplementary Planning Document ‘Design’ 2015.
17. While the development may be considered acceptable, in terms of its impact on the character of the area, this does not outweigh the fact that the change of use of Green Belt land by reason of its inappropriateness would fail to comply with both National and Local Policies.

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### Impact on Neighbour Amenities

18. The application site is in a rural location with dispersed dwellinghouses to the North, East and north-east with the closest of these dwellings located approximately 45 metres to the south-east of the site. Concern has been raised with regards to noise and disturbance associated with the change of use and highway safety. While the change of use from previous horticulture land in the Green Belt to an outdoor activity centre carries an increased level of noise, it has to be noted that the opening hours of the centre are not considered unreasonable, opening at 9.30am and closing at 7.30pm at the latest. These times are considered typical for a use of this kind and would broadly be in line with the opening hours of the adjacent garden centre which opens at 9.00am and closes at 5.30pm. Further to this, the site is located at least 45 metres from the nearest neighbour to the East with parking provided within the existing parking area at the garden centre. It is acknowledged that the scheme results in a material change of use which is contrary to Green Belt Policy and a use which is significantly different to the pre-existing use but it is not considered that the development causes significant detrimental harm to the amenities enjoyed by neighbours in the wider vicinity, in terms of noise and disturbance or highway safety impacts.
19. Consequently the development is considered to have an acceptable impact upon neighbouring amenity and to accord with guidance outlined in the National planning Policy Framework, Policy CS21 of the Woking Core Strategy 2012 and Supplementary Planning Document 'Outlook, Amenity, Privacy and Daylight' 2008.
20. While the development may be considered acceptable in terms of its impact on the amenities of neighbouring properties, this does not outweigh the fact that the change of use of Green Belt land by reason of its inappropriateness would fail to comply with both National and Local Policies.

### Impact on Parking/Highway Safety

21. Parking for the outdoor activity centre is provided within the existing Sutton Green Garden Centre which falls within Sui Generis Use Class as per The Town and Country Planning (Use Classes) Order 1987 (as amended). The Council's Supplementary Planning Document 'Parking Standards' 2018 states that Sui Generis Use Classes outside of a few mentioned (which does not include Garden Centres) require individual assessment/justification. In total the garden centre provides 92 car parking spaces to serve the garden centre and the activity centre. It has been noted by the applicant that the maximum number of participants attending the centre at any one time cannot exceed 30 given the limited space and facilities with many of these being transported to and from the site by bus. Surrey Highway Authority has been consulted on this scheme and raise no objection or requirements to the scheme.
22. Submitted plans show the application site outlined in red with neighbouring land (Garden Centre) in the applicant's ownership outlined in blue. The parking provided for the outdoor activity centre, and indeed the access route, is contained within the blue lined garden centre. A section of this route to the outdoor activity centre, however, occurs over land which dissects the garden centre and activity centre and is therefore outside both the blue line and red line. Policy CS18 of the Woking Core Strategy states that development should *"provide appropriate infrastructure measures to mitigate the adverse*

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*effects of development traffic and other environmental and safety impacts.*” Clarification has been sought from the applicant on whether the existing/proposed route, which includes crossing a section of this trackway from the garden centre, is lawful and whether permission has been granted to use this crossover. There has been no response from the applicant to the request for additional information. On the basis that access is not lawful across this trackway outside of the application site or land in ownership of the applicant, the only alternative route would be directly off Whitmoor Lane. This would require visitors to the activity centre to exit the car park located within the garden centre and walk along Whitmoor Lane gaining access to the activity centre off this highway and may result in safety issues considering the high usage of this highway and proximity to a busy junction. As such, in the absence of explicatory evidence, it is not certain and therefore it cannot be demonstrated that access to the site can be gained in a safe manner and without potential activity centre users having to walk along Whitmoor Lane in order to gain access to the application site.

23. Considering the above, whilst no objection is raised with regards to the parking provisions, the change of use of land from Green Belt land to an outdoor activity centre cannot demonstrate that access to the site can be gained in a safe manner without posing a danger to activity centre users or highway users contrary to Policy CS18 of the Woking Core Strategy 2012.

### Impact on Trees

24. The application site relates to woodland area which was a former growing area for tree production which has been left to remain and grow unchecked. This growth has resulted in substantial trees with significant coverage. The structures to be retained and reconsolidated within the centre of the site are of a temporary build and consist of tents and a timber pergola.
25. Policy CS24 of the Woking Core Strategy 2012 states that development proposals should *“protect and encourage the planting of new trees where it is relevant to do so”* and states within the reasoned justification text that *“trees form an important part of the landscape fabric of the Borough (and that)...the Council will seek the retention of existing quality trees and encourage the planting of new ones where it is relevant to do so”*. The application has been submitted with no supporting arboricultural information to demonstrate what trees are to remain and how they will be protected during the relocation of structures (including the installation of drainage and services).
26. The Council’s Arboricultural Officer has been consulted on this application and raises concern over the absence of details indicating which trees are to be retained and the absence of tree protection details.
27. Notwithstanding the above, it is considered that, had the application otherwise been considered to be acceptable, a planning condition would have been recommended to secure tree protection details in line with BS5837.

### Conclusion

28. Overall, the material change of use of the land and associated paraphernalia represents inappropriate development which is, by definition, harmful to the Green Belt where very special circumstances have not been advanced to justify the grant of planning permission. Substantial weight must be attached



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to this harm to the Green Belt, notwithstanding the current consultation on revisions to the NPPF which have yet to be adopted and therefore can only be afforded very limited weight. Consideration has been paid to the development's impact on the character of the area and amenities enjoyed by neighbours, which are found to be acceptable in this instance given its secluded location. Notwithstanding this, it has not been adequately demonstrated that access to the site can be gained in a manner which does not endanger potential visitors to the outdoor activity centre or highway users.

29. The proposal, therefore, is considered to fail to adhere to provisions outlined in Section 9 of the National Planning Policy Framework, Policies CS6 and CS18 of the Woking Core Strategy 2012 and Policy DM13 of the Development Management Policies DPD 2016 and is accordingly recommended for refusal. It is further recommended that enforcement action to secure the cessation of the unauthorised use and the removal of all associated paraphernalia be taken.

### **BACKGROUND PAPERS**

1. Site visit photographs
2. Site Notice (Major Development)(24.08.16)
3. Response from Highway Authority (30.08.16)
4. Response from Arboricultural Officer (01.09.16)
5. Response from Planning Policy (11.05.18)

### **RECOMMENDATION**

It is recommended that planning permission be **refused** for the following reasons:

01. The material change of use of the land and associated paraphernalia represents inappropriate development within the Green Belt and is therefore harmful to the Green Belt where very special circumstances have not been advanced to justify the grant of planning permission. The development is, therefore, contrary to provisions outlined in Section 9 of the National Planning Policy Framework, Policy CS6 of the Core Strategy 2012 and Policy DM13 of the Development Management Policies DPD 2016.
02. It has not been demonstrated that access to the outdoor activity centre can be gained without posing a danger to visitors to the centre or highway users. In the absence of such evidence, it has not been demonstrated that access to the site can be gained in a safe manner and the development is therefore contrary to the core provisions of the NPPF and Policy CS18 of the Woking Core Strategy 2012.

For the above reasons it is further recommended that:

- a) Enforcement action be authorised to remedy the breach of planning control by ceasing use of the site as an outdoor activity centre and removal of all associated paraphernalia relating to the use of the land as an outdoor activity centre. This is to be completed within three months of the issue of the Enforcement Notice

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### **Informatives:**

1. The plans relating to the development hereby refused are numbered / titled:

- Drawing No. G1607-01C (Received 17.06.2016)
- Drawing No. G1604-04A (Received 17.06.2016)
- Drawing No. G1607-03B (Received 08.06.2016)
- Drawing No. G1607-05A (Received 17.06.2016)
- 17.06.2016)