

Recommendation Report for Planning Permission

REF NO: AL/85/19/PL

LOCATION: Aldingbourne Nurseries
Church Road
Aldingbourne
PO20 3TU

PROPOSAL: Retention of Shop used only by students of One School Global, their parents and friends of One School Global, who are registered to use the Shop, with no sale or display to visiting members of the public (sui generis use). This is a departure from the Development plan.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The shop is solely for use by parents and friends (who hold a registered vend account) of the One School (Global) Hindhead campus. Each customer has a unique log-in and vend account. There are approximately 50 pupils attending this school in the Bognor Regis area. The shop is run on a voluntary basis by parents and friends of the school and is open at varying times. There is no custom to visiting members of the public. The shop has most food items on sale with a mix of brands and there are some ancillary items. Notable exceptions were no loose vegetables/fruit, no newspapers/magazines and no tobacco products. The use commenced in December 2016.
SITE AREA	The applicant is Campus & Co who run the shop but send 100% of all profits to One School (Global) who have over 130 campus schools in 20 different countries and are supported globally by the Plymouth Brethren Christian Church.
BOUNDARY TREATMENT	1,285 square metres.
SITE CHARACTERISTICS	2m timber fencing Timber fencing and gates. Predominantly hardstanding with a planted raised area on the northern side and a row of tall conifers to the eastern boundary with the road. The hardstanding surrounds the building with the majority to the front and all is available for parking. The building comprises of 4 No. portacabins (relocated here from the previous shop site) secured together forming one general open area. The building has a low pitched metal clad roof with gable ends. External walls are clad in dark brown horizontal timber feather edge wide planks and door and windows in dark brown UPVC double glazed units. There is a partially covered wheelchair ramp on the front and three air

conditioning units attached at front & back.

CHARACTER OF LOCALITY

Part of the Aldingbourne Nurseries site adjacent to the driveway access for the Plymouth Brethren Gospel Hall and shares the gated access from Nyton Road. The Aldingbourne Nurseries site is accessed from Church Road. To the north west is a site occupied by travelling showpeople.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Departure from development plan and an overdevelopment. It is outside the Built Up Area Boundary.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted.

CONSULTATIONS

Engineering Services Manager

Engineers (Drainage)

Southern Water Planning

Natural England

South Downs National Park

WSCC Strategic Planning

Economic Regeneration

Environmental Health

South Downs National Park

CONSULTATION RESPONSES RECEIVED:

NATURAL ENGLAND - No comments.

SOUTH DOWNS NATIONAL PARK AUTHORITY - No comments.

SOUTHERN WATER - No objection. Request an informative regarding connection to the foul sewer.

WSCC HIGHWAYS - No objection subject to a condition to secure vehicle turning space.

- Wide access and allows two cars to use the access simultaneously, good visibility in both directions;
- Access to school shop will be taken from access road, which is privately maintained;
- Ideally the access onto the driveway should be designed to provide good visibility in both directions with adequate width to allow cars to enter and exit safely;
- The car park will accommodate up to 15 cars;
- As the site is considered to be sui generis use class no parking standards can be applied. WSCC advise any spaces should be created in line with manual for streets guidance of 2.4m x 4.8m. The layout should allow for parking and turning enabling cars to exit the site in forward gear;
- There are no footways or footpaths in the site and none are present on Nyton Road which suggests all trips would come to the site in a private car;

- Bus and rail services are close by however no footpaths make it difficult to reach;
- The size of the shop and likelihood of the trips being combined with the Gospel Hall are high, and as such it is not expected that there would be a significant capacity impact.

ADC DRAINAGE ENGINEERS - No comments.

ADC ECONOMIC DEVELOPMENT - No objection.

ADC ENVIRONMENTAL HEALTH - State no comments.

COMMENTS ON CONSULTATION RESPONSES:

In respect of the Southern Water comment, the application states that the building is already connected to mains drainage.

Regarding the WSCC Highways response, the access into the shop site is considered wide enough for two cars and visibility was not considered to be a problem when exiting after the site visit. It is not considered that a turning condition is reasonable or necessary as there is already vehicle turning space within the site and an informal parking arrangement is acceptable given the low use levels.

POLICY CONTEXT

Designations applicable to site:

Outside the Built Up Area Boundary;
Class B Road;
Area of Special Control of Adverts;
Lidsey Treatment Catchment Area;
Horticultural Local Development Order;
WSCC Mineral Consultation Area - Sharp Sand & Gravel; and
Within 12km of the Singleton & Cocking Tunnels Special Area of Conservation.

DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

CSP1	C SP1 Countryside
DDM1	D DM1 Aspects of form and design quality
DSP1	D SP1 Design
ECCSP2	ECC SP2 Energy and climate change mitigation
QESP1	QE SP1 Quality of the Environment
HWBSP1	HWB SP1 Health and Wellbeing
SDSP1	SD SP1 Sustainable Development
TDM1	T DM1 Sustainable Travel and Public Rights of Way
TSP1	T SP1 Transport and Development
WDM3	W DM3 Sustainable Urban Drainage Systems

[Aldingbourne Neighbourhood Plan 2016 POLICY EE9](#) Sustainable Commercial and employment buildings

Aldingbourne Neighbourhood Plan 2016 POLICY EH1 Resist development outside

Aldingbourne Neighbourhood Plan 2016 POLICY EH10	Unlit village status
Aldingbourne Neighbourhood Plan 2016 POLICY GA1	Promoting Sustainable movement
Aldingbourne Neighbourhood Plan 2016 POLICY GA3	Parking and new development

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

The relevant policies of the Aldingbourne Neighbourhood Development Plan are referred to in this report.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to conflict with the Development Plan policies in that new retail development in this out of centre location is not appropriate.

OTHER MATERIAL CONSIDERATIONS

The applicant has supplied a legal opinion which advises that the shop is not a class A1 retail use and is classed as sui generis. The advice is clear that an A1 retail use has to include sales to visiting members of the public and this is not the case with this shop. The advice refers to established case law (The Queen v Thurrock Borough Council, Costco Europe (UK) Ltd, Lakeside Trading Estate Ltd 1993) which confirmed that a similarly restricted retail operation operated on a membership basis, was not to be regarded as Class A1 retail.

The Council's principal lawyer agrees with the legal opinion. The sui generis use ensures control is retained over the shop and prevents its use as an A1 store. This allows the Council to consider the proposal as a special case and approve the development contrary to development plan policy.

CONCLUSIONS

PRINCIPLE OF RETAIL USE IN THE COUNTRYSIDE:

The site lies outside the Built Up Area Boundary (BUAB) in both the Arun Local Plan (ALP) and the Aldingbourne Neighbourhood Plan (ANDP).

ALP policy C SP1 allows for development in the countryside where it accords with another policy in the Local Plan. The proposed use is not in accordance with part (3) of ALP policy RET DM1 as this only allows retail uses outside of the centres defined on the Policies Maps where the proposal:

- a. The scheme meets the impact tests of the NPPF;
- b. The scheme is easily accessible by the highway network and public transport;
- c. The scheme includes provision for access by cycle and on foot;
- d. The scheme includes appropriate provision to enable access for people with disabilities.

In this case, (a) is not met as no sequential test has been provided; (b) is not entirely met as the site is not easily accessible by public transport; and (c) is not entirely met as although it is possible to cycle to the site, walking is not an option. However, (d) is met as the site has level access and a disabled access ramp up to the store.

On the basis that the proposal does not comply entirely with policy RET DM1, it also does not comply with ALP policy C SP1 and therefore is in conflict with the Arun Local Plan.

There is conflict with the older ANDP as policy EH1 states proposals for development outside of the built-up area boundary, that do not accord with development plan policies in respect of the countryside will be resisted. ANDP policy GA1 states development proposals that increase travel demand will only be supported where they can demonstrate they extend/improve walking & cycling routes and are located in places accessible to public transport. This site is not easily accessible by non-car modes of transport (cycling excepted).

DESIGN & AMENITY:

ALP policy D DM1 requires the Council seek to make the best possible use of land by reflecting or improving upon the character of the site and the surrounding area. It requires the Council to consider scale, massing, aspect, siting, layout, density, building materials, landscaping, and design features. It is necessary that development demonstrates a high standard of architectural principles, use of building materials and hard and soft landscaping to reflect the local area. The policy requires the scale of development keep within the general confines of the overall character of a locality. ALP policy DSP1 "Design" requires development to make an efficient use of land and also reflect local character.

It is not considered that the use represents overdevelopment as the building occupies a small part of the site whilst the site itself is an unused part of the Aldingbourne Nurseries. The site retains the eastern boundary trees and the planted bund on the northern side. The building has a functional appearance but is clad in timber which is a suitable material to the rural environment. It is not considered that the design is inappropriate and there are no views of the site or the building from nearby public viewpoints (such as Nyton Road). The proposal accords with the ALP design policies.

RESIDENTIAL AMENITY:

ALP policy QE SP1 states: "The Council requires that all development contributes positively to the quality of the environment and will ensure that development does not have a significantly negative impact upon residential amenity".

The site is not close enough to dwellings to warrant a full assessment of the likely impacts. The nearest dwellings are nos. 1-2 Aldingbourne Barn at 35m to the northwest and there is a row of cottages forming

part of Aldingbourne Nurseries at around 115m to the south. The site is within the wider Aldingbourne Nurseries (commercial) site and close to the Plymouth Brethren Church Gospel Hall. The use is not likely to result in harmful noise disturbance and it is noted Environmental Health have not objected. The proposal is in accordance with policies on residential amenity.

HIGHWAYS & PARKING:

ALP policy T SP1 seeks to ensure development: provides safe access on to the highway network and promotes sustainable transport. In respect of parking, it states: "The Council will support transport and development which: incorporates appropriate levels of parking in line with West Sussex County Council guidance on parking provision and the forthcoming Arun Design Guide taking into consideration the impact of development upon on-street parking". In addition, policy T DM1 requires that new development be located within easy access of established non-car transport modes/routes and also seek to contribute to the improvement of such routes & facilities.

ANDP policy GA1 seeks to promote sustainable (non-car) forms of transport. It requires development to be located in places accessible to public and community transport. ANDP policy GA3 requires parking be provided in accordance with the standards adopted at the time. ANDP policy EE9 states where appropriate, all new commercial and employment development, shall be designed to provide secure parking and storage of bicycles for customers and employees.

Paragraph 108 of the NPPF states: "In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that: (b) safe and suitable access to the site can be achieved for all users". Paragraph 109 states that: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

WSCC Highways raise no objections and note the access onto Nyton Road is wide enough for two cars, has good visibility in both directions and allows cars to wait off the highway if the gates are closed. They advise that the parking area is large enough to accommodate up to 15 cars but that there are no applicable parking standards for this sui generis use. They consider that although the site is not sustainably located and that most trips will be by car, the size of the shop, the size of the customer base and the potential for trips to be combined with the Gospel Hall are high, and as such it is not considered that there would be a significant capacity impact.

The site does not have any secure storage for bicycles, however, the site is secure given it benefits from gated access from Nyton Road and gated access into the site. The shop benefits from CCTV over the car park. The occasional cyclist customer/staff member can be confident that a bicycle left locked outside the shop will be secure and as such it is not appropriate to insist on cycle storage at the site.

Although there is some conflict with relevant ALP and ANDP policies in respect of the unsustainable location of the site, the particular nature of the use and small customer base combine to allow for the development to be considered acceptable in highway terms.

SUMMARY:

The principle of the use conflicts with policies of the development plan which seek to focus retail development to town and local service centre locations and to prevent unnecessary development in the countryside. This is not a normal retail use with no sales no visiting members of the public (so not in class A1 of the Use Classes Order) and has a very small customer base (those with a connection to the school and thus a registered vend account). Its location adjacent to the Plymouth Brethren Gospel Hall allows for some trips to be combined. These circumstances have significant weight in this assessment

and conflict with the development plan can be disregarded in favour of granting permission.

It was considered whether to impose a personal permission condition. Paragraph 015 (Reference ID: 21a-015-20140306) of the National Planning Practice Guidance (NPPG) states: "A condition limiting the benefit of the permission to a company is inappropriate because its shares can be transferred to other persons without affecting the legal personality of the company". Consideration has been given to a temporary permission (which the applicant suggested) however this would only be appropriate if the Local Planning Authority wanted to monitor a use and review its impacts at a later date. The use has been running for over 4 years with little impact and so a temporary permission would not be relevant.

It is recommended the application be approved in accordance with the following conditions/informatives.

HUMAN RIGHTS ACT

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

RECOMMENDATION

APPROVE CONDITIONALLY

- 1 The premises shall only be available to parents and friends of One School Global who hold a registered vend account and there shall be no trade to visiting members of the wider public.

Reason: Planning permission has been granted exceptionally for the proposed retail use in conflict with policy RET DM1 of the Arun Local Plan therefore it is necessary to control the specific nature of the retail use.

- 2 Within 2 months of the planning permission being granted, the applicant shall submit for approval in writing by the Local Planning Authority details of any external lighting currently installed on the site or that is to be installed on the site. Such details shall include type of light appliance, the height and position of fitting, illumination levels and light spillage. The scheme

should seek to conform with the recommendations within BS5489:1-2013 but also minimise potential impacts to any bats in the area by avoiding unnecessary artificial light spill through the use of directional light sources and shielding. The lighting approved shall be installed and shall be maintained in accordance with the approved details.

Reason: In the interests of the amenities of the area, the site biodiversity (particularly in respect of bats), the interests of minimising crime and to minimise unnecessary light spillage outside the development site in accordance with policies QE SP1, QE DM2 & ENV DM5 of the Arun Local Plan and policy EH10 of the Aldingbourne Neighbourhood Development Plan.

- 3 INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 4 INFORMATIVE: A formal application for connection to the public sewerage system may be required in order to service this development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk. Please read New Connections Services Charging Arrangements documents which is available to read on the SW website: <https://beta.southernwater.co.uk/infrastructurecharges>.