

Addendum Report

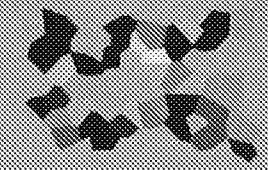
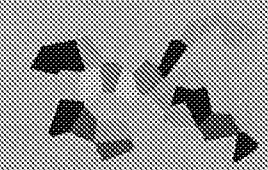
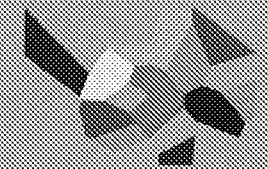
**Land south of New Road (A259) and East of
Brook Lane Angmering**

Application A/23/15/OUT

**Full Planning Permission for a retail unit
(A1) of 1487 sq m and Outline Planning
Permission for a Public House (A4) 587sq m**

June 2015

C10247



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Lane Angmering**

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1487 sq m and Outline Planning Permission for a
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1.0 Background

- 1.1 This is an addendum to our report to Arun District Council of May 2015 which considered the Retail Assessment prepared Blue Sky Planning (BSP) for application A/23/15 dated February 2015. Since BSP had produced its report, Waitrose had announced its intended move from Littlehampton to Rustington. This has significant implications for both the sequential test and retail impact and we recommended that the applicant be invited to submit further information to take this relocation into account. This addendum considers the Retail Policy Response by Montagu Evans (ME) dated June 2015.
- 1.2 We concluded that the matters requiring further consideration with regards to the applicant's Retail Statement were :-

The Sequential Test

- The availability and suitability of the soon to be vacated Waitrose outlet in Littlehampton town centre both as a freestanding unit and as an extension to the St Martins Car Park site.

Retail Impact

- the inclusion of VAT in the estimated turnover of the proposed store;
- the trade draw;
- the turnover of Littlehampton and Rustington centres taking account changes since the Arun Retail Study viz The Morison's Wick, Morison's town centre;
- the closure of the Waitrose in Littlehampton and the re-occupation of the Co-op in Rustington by Waitrose;
- The cumulative impact including recent changes and the Mill Lane permission (A/123/13).

2.0 The Sequential Test

- 2.1 The only additional matter to be considered is the unit soon to be vacated by Waitrose in Littlehampton. ME makes comments itself and there is in addition a letter from M&S and layout plans from a feasibility study carried out on the unit by M&S in 2011.
- 2.2 As a preliminary matter, ME quotes from the judgement in the *Zurich Assurance Ltd v North Lincolnshire Council (November 2012)* case. However, in respect of the sequential test, it followed the Dundee judgment and so does not take the matter further forward. ME claims that it is particularly relevant because it involved M&S and a single vacant town centre unit, but it is clear from the passage quoted, that in the Zurich case, the sequentially preferable unit was too small and that this had specific consequences in relation to the range of goods it could offer. The application was in fact for a unit 4645 sq m (plus three other units) and was clearly not a Simply Food outlet. M&S would have had to split their food and non-food offers to be accommodated in the town centre.
- 2.3 It is clear from the submitted material that in this case the town centre opportunity is seen as too large. This does not have the same consequences. It should also be borne in mind that the both the Dundee and Zurich cases were reviewing committee decisions to permit a development in the context of third party challenges. The judgments in effect endorse the right of committees to exercise their discretion, provided they do so reasonably.
- 2.4 It is clear that M&S did consider the unit in 2011 and that the acquisition failed to gain board approval. The poor net to gross floorspace ratio (46/100) is described as a key factor. M&S notes that that was in the context of a larger floorspace than now proposed (1115 sq m compared with 836 sq m). The 2011 feasibility study included a café of 223 sq m which would reduce the net retail sales floorspace to 880 sq m. The current proposal may or may not include a café of 50 sq m. On the face of it, the net retail floorspace is not that dissimilar but of course the overall building in Littlehampton is much larger. (2436 sq m according to M&S compared with 1486 sq m). The sales data from Colliers gives a floorspace of 2375 sq m, but the difference is not significant. The extent to which a larger building would impose additional costs is not clear. While some costs, such as

heating, lighting and maintenance would be higher, the poor net to gross floorspace ratio can be expected to be reflected in any rent agreed. It would therefore depend on which other retailers might be interested in the unit (and whether the security of an M&S covenant was regarded as sufficient to outweigh a higher rent). ME suggests that there is other retail interest.

- 2.5 M&S also identifies concerns about the location of the unit and its physical state in the board's decision. These matters are not amplified. ME claims that the recent history of the site demonstrates that the site is not suitable for convenience goods retailing generally. However, the Co-op acquired the unit as part of the Somerfield take-over and its closure is not necessarily indicative of a poor trading location. If the information supplied is correct, Waitrose was given a significant inducement to move to Rustington. Rustington may be a more favoured location for Waitrose given its market orientation, but that does not suggest the site is incapable of supporting one of the main food retailers. ME are probably correct that the site will not do so, certainly in the near future given the current position of the main food retailers, but that does not render the site unsuitable for such a use in terms of the sequential test. ME does not identify site specific reasons why the site is unsuitable for food retailing in general.
- 2.6 The key question is whether M&S have shown sufficient flexibility in rejecting the unit this time around. The amount of flexibility required is a matter of planning judgement, and the Council's conclusion can be reviewed through the appeals process. There are two main considerations arising from the submission:-
- Is the difference in size between the proposal and unit sufficient to justify the rejection of the unit? And;
 - Whether the impact on the net to gross floorspace ratio on costs is sufficient to make the store unviable?
- 2.7 The net retail sales floorspace would be 880 in the sq m in Littlehampton unit compared with 836 sq m in the current proposal (if the café is not provided in the current proposal) and 786 sq m if it is included. The Littlehampton unit would therefore be between 5% and 12% larger than the current proposal. A 10% variance from the application proposal is often used by applicants to claim flexibility, although there is no support for this figure in national policy or guidance or clear support as a general proposition in appeal decisions. On top of this, there would be additional costs in

converting the building, and in maintaining it, although these are not quantified. On balance, we consider that the applicant has just about demonstrated that the unit is unsuitable as a sequentially preferable opportunity. Although in theory, the onus is on the applicant to demonstrate compliance with the sequential test, in practice local planning authorities are put under considerable pressure at appeals to demonstrate that sequentially preferable sites are suitable and available and we also consider that that an inspector would be more likely to conclude that the unit is not suitable than that it is.

The St Martins Car Park Site

- 2.8 We understand that the Council was advised that the St Martins Lane Car Park site was unlikely to attract food led retail investment once Waitrose had acquired the former Somerfield store, a view which we shared in considering other applications. This obviously needs re-appraising in the context of Waitrose's leaving the town centre.
- 2.9 The main reason ME gives for ruling the site out as an alternative is that it cannot be considered available. ME gives the M&S's timescale as 12-18 months, and quotes the Rushden Lakes decision as indicating that sites should be immediately available. The availability of a site has to be considered in the context of the particular proposal in question. As noted the onus tends to fall on local planning authorities to prove that sites could be available at Inquiry and this would be particularly so in view of the Council ownership. Our current understanding is that it would be difficult to demonstrate the site could be made available with a reasonable timescale for the proposal. Our reasons for that conclusion are that alternative parking would be required to avoid a detrimental impact on the town centre, that there is no "scheme" for the site and no recent progress in bringing it forward. The Council will have a better understanding of the current position, but we emphasise that, in practice, the burden of proof at Inquiry is likely to fall on the Council.
- 2.10 This leaves the question of whether the availability of the adjoining land (currently occupied by Waitrose) would make the site more attractive to development. The prevailing view a few years ago was that a mixed development might be made viable by the inclusion of a large foodstore and that the site excluding the Avon Road site was too small to support a large enough foodstore. The

current commercial position of the large foodstore operators is such that the development of large foodstores is now unlikely. The intentions of the current leaseholder appear to be re-let the lease on the Avon Road site. This runs to the end of 2020. There may or may not be marriage value in combining the two sites, but that is a long way from being clear and certainly does not indicate an early redevelopment of the St Martins Car Park site.

- 2.11 We therefore conclude on the information we have at present that the applicant has demonstrated compliance with the sequential test. This comes down to a planning judgement as to whether the applicant has shown sufficient flexibility. Our judgment is that it has done just enough and that that view is likely to prevail in any appeal, but an alternative case would not be unreasonable. The Council may have better information on the current position on the St Martins Car Park site than ourselves, and we would review our conclusions on this in the light of further information.

3.0 Retail Impact

- 3.1 We have considered ME's comments on the vitality and viability of Littlehampton town centre in paras 3.2 - 3.10 of its report. The decision by Waitrose to relocate is a sign of weakness of the town centre and the loss itself will also weaken to the town centre directly. While a replacement retailer appears reasonably likely, it is unlikely to have the same power of attraction as the Waitrose store. It is possible that a future retailer would have a higher propensity to generate linked trips to the town centre, but the number of trips to the store itself is likely to be lower since convenience stores have a much higher trip generation rate than others. Similarly, while the residential development on the Surrey Street market site will provide some activity, ME does not address the fundamental issue - that the relative land values between retail and residential uses is a sign of weakness. It does not provide information to contradict our analysis of rents, yields and operator demand.
- 3.2 We find nothing therefore in ME's response to alter our conclusions on the health of the town centre – that it is a weak centre which is vulnerable to trade diversion.

Impact on Existing, Committed and Planned Development within the Centres

- 3.3 The NPPG notes that the key considerations in relation to the impact on planned investment are the policy status of the investment, the progress made towards securing it, and the extent to which the proposed development is likely to undermine it. As outlined above, our view at present is that the planned development has not progressed far enough and we agree that that development would not be undermined by this particular proposal (bearing in mind our conclusions on the sequential test). We agree with the applicant that there is little prospect of development by one of the mainstream foodstore operators, and a discounter would not be deterred from investment by the proposal – both aim to draw trade at different levels from the mainstream operators rather than each other.

Impact on Vitality and Viability of Centres

3.4 We commented on the following:-

- the inclusion of VAT in the estimated turnover of the proposed store;
- the trade draw;
- the turnover of Littlehampton and Rustington centres taking account changes since the Arun Retail Study viz The Morison's Wick, Morison's town centre, the closure of the Waitrose in Littlehampton and the re-occupation of the Co-op in Rustington by Waitrose;
- The cumulative impact including recent changes and the Mill Lane permission (A/123/13).

VAT

3.5 ME has adjusted the estimated turnover of the proposed store to include VAT at 8% and adopted the trade draw that we suggested was more likely. We noted our preference for evidence based estimates of trade draw over judgmental estimates and suggested more trade would be derived from the nearby large foodstores and less from outside the catchment area. Overall, the trade draw from Littlehampton and Rustington town centres was only marginally greater.

The Turnover of Centres

3.6 We noted that a number of adjustments are needed to update the turnover of the centres from the Arun Retail Study. ME starts with the total turnover of the centres (convenience and comparison) rather than the convenience goods turnover previously used by BSP. ME then deducts an allowance for trade diversion from the Morrison store at Wick, based on figures in the original retail impact assessment submitted by the applicant. However, these figures were regarded as a significant underestimate and were not accepted by the Council. It was obvious to us that a store with an estimated turnover of some £29m would divert more than £0.32m from the nearest town centre (and about the same from one significantly further away). The figures were also based on the Co-op rather than Waitrose in the town centre. There would also be a need to adjust the price base before the Morrison figures could be used in conjunction with the Retail Study's figures.

3.7 ME uses the trade diversion for the extension to the Sainsbury at Rustington Retail Park taken from Appendix 1 Table 2. This however, does not represent the additional trade diversion from the

extended store but the additional floorspace to that already permitted but not implemented—based on an additional 905 sq m (Appendix 1 Table 1). The actual increase in floorspace from the existing store to the built-out scheme was 3767sq m. It is clear that the adjustment ME has made is far too small. Again the applicant's figures were not accepted and no adjustment has been made to reflect the different price basis.

- 3.8 The adjustments made by ME to the town centres to reflect the impact of these two developments are therefore considered far too small.
- 3.9 On the other hand the adjustment made to reflect the relocation of Waitrose is too large. First, this is partly because it is based on the company average sales density. The estimate of the town centre turnover taken from the Arun Retail Study indicates that the Waitrose was, at the time of the survey trading at about £11.93m rather than the benchmark turnover, based on company average of about £15.15m. More has been deducted from the Littlehampton town centre turnover than contributed by the Waitrose. Second, as we noted in our earlier report, not all of the turnover would transfer to Rustington – some of the current turnover will be derived from people in the town centre who are food-shopping as part of a trip for other purposes. They are likely to swap to other foodstores in the town centre, rather than journey to Rustington. Lastly, since the move has not taken place the relocation should not be reflected in the base-line position, but as part of the cumulative impact. It also follows that, if the impact on Littlehampton has been overstated, the increased turnover at Rustington has been also been overstated.
- 3.10 Lastly no account has been taken of the opening of the Morrison Local store in Littlehampton town centre. This is likely to have diverted most of its turnover from existing shops in the centre, but the effect of this store should be explicitly addressed and some allowance, possibly small, may be appropriate for trade diversion to the store, from other shops and foodstores outside of the town centre.

Trade Draw

- 3.11 We did not estimate the split in trade draw between Littlehampton and Rustington. ME has assumed that 85% of the combined trade draw from the two town centres would be from

Rustington and only 15% from Littlehampton. No reasoning is given for that estimate. Previously BSP's judgments had resulted in 75% of the trade draw being assumed to be from Littlehampton and 25% from Rustington (calculated from BSP App 7 Table 4). This clearly needs revising in the context of Waitrose's decision to relocate to Rustington. The adjustments made by ME for the relocation of Waitrose store would transfer about £15m from Littlehampton to Rustington, although we consider this to be an overestimate). This would, however, leave the actual trade split between the two centres as 64% for Rustington and 36% for Littlehampton. Since the two centres are equidistant from the application site, this should form the starting point for assessing any trade draw split. The most direct competition would be with the Waitrose store which could be expected to tilt balance towards more trade draw from Rustington, but we regard the 85% from Rustington as over-estimated – 70% or 75% would appear more reasonable, particularly when the over-estimation of the Waitrose effect is taken into account..

Cumulative Impact

- 3.12 The only commitment included in the cumulative impact assessment is the Mill Lane proposal. Again ME has used the applicant's estimate of trade diversion. However, this assessment was made before the Waitrose announcement of its relocation and the trade diversion includes the Waitrose store as part of the Littlehampton town centre. The convenience goods trade diversion figures would have been significantly different if the relocation of the Waitrose to Rustington has been taken into account.

Conclusions on Retail Impact

- 3.13 It is clear that there remain a number of problems with the retail impact assessment. As a general point, the figures used to adjust the town centre turnover estimates are drawn from a number of sources which are not consistent with each other and are in differently based prices. Nor are they for the same years. Other difficulties arise as follows:-

- **Morrison, Wick** -the adjustments to the estimated turnovers of Littlehampton and Rustington were far too small and were not accepted by the Council in determining the application;

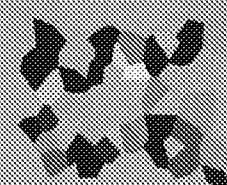
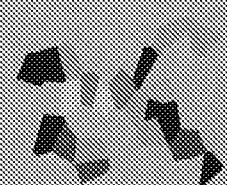
- **Sainsbury Redevelopment, Rustington Retail Park** - the adjustments made do not reflect the increase in floorspace over the built floorspace, but only the increase over the floorspace as previously permitted;
- **Waitrose Relocation to Rustington** - the adjustments made are too great because it is assumed that all the Waitrose trade would transfer to the new location. The allowance is also based on the company average sales density rather than the surveyed derived estimate. It is necessary to take a view on how much of the Waitrose trade would transfer (like the assessment undertaken for the vacated Co-op unit). Since the relocation has not yet taken place, it should not be treated as part of the base line assessment, but as an impact in determining the turnover of the centres in the impact assessment year (the Council needs to understand the centres turnover in the impact year compared with the time that the health of the centre has been assessed).
- **Morrison Local, Littlehampton Town Centre** – no adjustment has been made for the new store. It is necessary to assess how much of its turnover would be derived from other shops in the town centre and how much additional spending it attract. Its impact on the Waitrose turnover before relocation would also need to be considered;
- **The Mill Lane Commitment** – it is necessary to review the balance of likely trade diversion between Littlehampton and Rustington in the context of the relocation of Waitrose.
- **Trade Draw** – we are not convinced that the split adopted between the trade diversion from Littlehampton and Rustington is reasonable and would wish to see more justification before it is accepted.

3.14 Bearing all these factors in mind, it is impossible to come to a conclusion on the retail impact of the proposal on Littlehampton and Rustington town centres. We conclude, therefore, that the applicant has failed to demonstrate that the retail impact on the centres would be acceptable. Clearly with the relocation of the Waitrose, the focus should be on future health of Littlehampton town centre.

4.0 Conclusions

- 4.1 Compliance with the sequential test in this case depends largely on whether sufficient flexibility has been shown towards the soon to be vacated Waitrose building in Avon Road, Littlehampton. It is a matter of planning judgement which has to be made by the Council. We conclude that applicant has done enough to demonstrate this but an alternative judgement would not be unreasonable. However, we consider that it would be difficult to support that judgment in the event of an appeal.
- 4.2 In relation to the St Martins Car Park site we conclude that it would be suitable but, on our understanding of the evidence, it would be difficult to demonstrate that it would be available. We have considered whether the relocation of the Waitrose would alter that, but concluded that it would not. The unit is on the market with a lease on offer to December 2020, and there is no obvious intent to redevelopment the building, or obvious marriage value in combining the site with the St Martins Car Park site.
- 4.3 We therefore conclude that the proposal complies with the sequential test. In coming to this conclusion, we have had regard to the Dundee and Zurich (North Lincolnshire) judgments and the Rushden Lakes decision.
- 4.4 We conclude that the applicant has not demonstrated that the impact on nearby centres would be acceptable. The applicant has based its estimate of the centres' turnover by updating the Retail Study's estimates. There have been a number of significant changes to the centres and more are to come. The adjustments the applicant has made to estimate the effect of these changes are not consistent with each other, underestimate some impacts and over-estimate others. Unfortunately, the number and magnitude of the adjustments mean that we cannot reasonably assess what the overall effect on the estimated turnover of the centres is likely to be and further information would be required.
- 4.5 However, we do note that the main concern is with cumulative impact. The applicant's assessment suggests an impact of 7% - 8% in both Littlehampton and Rustington. This is a level which itself raises concern and makes it unreasonable to proceed to permit the application without more

reliable information. It is always relevant to consider how much of a cumulative impact the individual proposal would contribute and it would be unfair and unreasonable to refuse planning permission if the proposal is not a significant proportion of the total impact. The proposed development is likely to form a relatively small proportion of the cumulative impact and it may be appropriate to consider mitigation measures in that circumstance. This would only be appropriate to consider if a clearer idea of the likely impact were available.



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