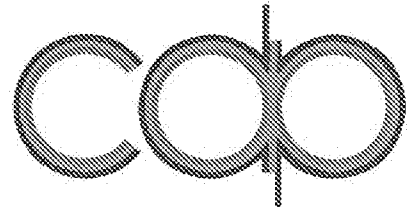


Commercial
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Councillor Susan Bence



Our Ref: JRM/LT
4th May 2018

Dear Councillor Susan Bence

**APPLICATION - A/23/15/OUT & A/11/17/OUT - LAND SOUTH OF NEW ROAD (A259) & EAST OF
BROOK LANE ANGMERING – M&S PROPOSALS**

Commercial Development Projects Ltd are the owners of the above site and joint applicants with Marks and Spencer Plc in respect of the two applications which the Planning Committee will be considering on Wednesday 9th May. M&S has written separately to confirm their commitment to the proposals.

We are disappointed that officers at Arun District Council have recommended both the applications under consideration for refusal and wanted to take a few moments of your time to explain our case in support of the proposals in a bit more detail.

As you'll be aware the original application was overwhelmingly supported by councillors in 2016. That original application was then subject to a claim for judicial review and was quashed by a Consent Order on 9 February 2017 in relation to 'Ground 1' concerning the sequential test. The original application (A/23/15/OUT) is now being re-considered following a review and update of, inter alia, the sequential test. Concurrently to this application, a revised proposal (A/11/17/OUT) is also now due for consideration. It is the same as the original in relation to the M&S and public house but proposes an alternative means of access.

CDP and M&S are committed to proposals to deliver an M&S Foodhall on this site. As members will be aware, we undertook a large scale public consultation process where over 300 local residents attended and the majority of respondents (69%) indicated support for our plans. This is reinforced by the 48 letters of support received by officers in response to the original submission. A selection of the comments received are listed overleaf.

In the report from the Council's retail consultants, DPDS, it is identified that there would not be significant adverse retail impact on Littlehampton or Rustington town centres by the proposed development. In relation to the sequential test, related to the former Waitrose Site in Littlehampton, DPDS go on to state that ***"the weight to be given to failure of the applicant to satisfy the sequential test is not overwhelming in the absence of other retail harm"***. In the committee report for this application the officer also says that the decision regarding the sequential test is marginal.

We submitted representations to officers in August 2017 which explain that, having regard to the DPDS advice and material considerations related to this proposal, the former Waitrose unit is not suitable for foodstore use for the following key reasons:

Directors
C. R. Marshall - Chairman - & C.I.O.R.
S. C. N. Marshall - Managing Director - B.Sc (Hons)
J. P. Marshall - B.Sc (Hons), M.R.I.C.S.
J. Booth

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Company Reg. No. 993788 England

- 1) The churn of retailers across a range of sub-sectors within the foodstore market over a number of years and the ultimate departure of Waitrose provides clear evidence that the site is not viable for convenience retailing;
- 2) The site has been actively marketed for nearly 3 years without success. Market indicators have long been used in planning to make provision for appropriate land uses. Given the targeted and continuous marketing efforts over a substantial period of time it is clear that a foodstore use is not viable;
- 3) The landowners appear to have accepted these market indicators and are now considering redevelopment for a residential led mixed use scheme to secure a viable long term future for the site.

Accordingly the sequential test has been satisfied.

Having regard to the above advice from DPDS, if Members conclude that the sequential test has not been passed in this instance, they would still be entitled to grant permission on the basis that, on balance, the development plan and other material considerations indicate that planning permission should be granted.

There are clear and material factors to be weighed in the planning balance. As advised in our representations these are:

Economic: *Provision of a premium food retailer will significantly enhance the attraction of the area to shoppers. More importantly, it is estimated that the development will provide 110 permanent jobs, comprising a mixture of full and part time positions, together with a considerable number of additional employment opportunities during the construction phase of development.*

Supporting the M&S application would also deliver environmental improvements to Littlehampton and a Town Centre Manager to work with the town's retail and leisure sector to make the most of the capital investment in the wider area and providing support for smaller and independent traders.

Social: *The development will serve the local population by extending the range of commercial facilities available in the area, which will be accessible to all and provide a socially inclusive environment with dedicated facilities for disabled users and those with other mobility challenges. The majority of jobs created by the development will also be filled by the local workforce, where employees will benefit from the proposed operators' dedicated training and development programmes.*

Environmental: *As well as being designed and constructed to modern standards of energy efficiency to make the best use of natural resources, the provision of a retail development in this location would reduce the need for M&S customers to travel to locations further afield to meet their shopping needs. Footpath and cycleway connections including a linkage to the bus stop within the Mill Lane Site will also encourage alternative modes of travel.*

The statutory framework gives a wide discretion to Councillors to approve a planning application where an assessment of it against planning policy and material considerations concludes that there are factors pulling in different directions, so long as any decision is justified. The Planning Practice Guidance is explicit that Members are entitled to use their own judgment when determining how much weight to afford competing considerations:

"Provided it has regard to all material considerations, it is for the decision maker to decide what weight is to be given to the material considerations in each case, and (subject to the test of reasonableness) the courts will not get involved in the question of weight" (Paragraph 009)

In this case, it is clear that the material benefits of the development would outweigh any potential harm arising, even if members conclude that the sequential test would not be met (contrary to our opinion set out above about the former Waitrose site).

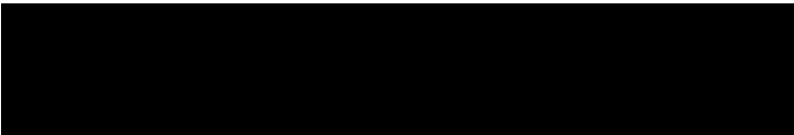
If Members, having weighed all these matters carefully, are minded to grant permission, we are therefore confident that such a decision would be both lawful in relation to the Section 38(6) test and appropriate, as a matter of planning judgment.

Finally, in respect of the proposed site access, it has been confirmed through engagement with the highway authority that both proposals are acceptable in highways terms. Access is a reserved matter in relation to the outline consent for housing on adjacent land. Accordingly there is scope for landowners to agree a mutually acceptable access solution to their respective developments. However these discussions can only take place once a planning permission at the subject site has been secured.

Overall, we believe that the approval of this M&S Foodhall will not have an adverse impact on the success of the centres and the benefits of the proposals are clear. Regarding relationships with the adjacent landowner CDP will work positively towards a suitable outcome once planning permission has been established.

Kind regards,

Yours sincerely



James H Marshall