

Addendum to Report to Arun District Council

**Proposed New Retail Unit with Mezzanine together
with Associated Car Parking and Service Road - Land
at Rustington Golf Centre Angmering – Application
A/84/17/PL**

On behalf of Arun District Council

February 2018

C10291



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1.0 Background

- 1.1 DPDS prepared a report on the application for retail development in January 2018 on behalf of Arun District Council. The report concluded that the applicant had failed to satisfy the sequential test because the applicant considered sites' only in relation to the named occupier, but the proposed condition would allow a much wider range of goods to be sold. The applicant did not present sufficient information to rule out the former Waitrose building in Littlehampton, the Oldlands Farm site at Bognor Regis and possible opportunities in the Worthing area. The report also concluded that the applicant had not met the impact test because its assessment was based on the narrow range of goods of the named user and not on the wider range of goods sought. The report also noted that this was not to say that the tests could not be met, but simply that they had not been met.
- 1.2 In response the applicant has claimed that we had not had regard to the agreement with the Council on the scoping of the assessment in our report (we were not aware of the discussions), provides further comment on the sequential test and presents additional assessment of the likely impact of the proposal under the "bulky goods" scenario.
- 1.3 Appendices 1 and 2 of the response sets out the scoping report and the Council's response. It appears to us that the matters raised in our report fall within the parameters set by the scoping report and in particular the matters listed in RPS response para 7. It is of course always the case that more detailed examination in the assessment itself gives greater prominence to certain matters or even introduces matters not identified at the scoping stage and such matters cannot be ruled as immaterial by a scoping proposal. Particular points we note are that although Littlehampton and Rustington are identified as the centres for assessment of sequential sites, the applicant in fact considered the Oldlands Farm site at Bognor Regis. It comments that this was at the request of the Council, although this is not apparent from the documents submitted. It follows that if the Oldlands Farm site is to be considered other sites in Bognor Regis cannot be ruled out in principle. Secondly, the list of matters set out in para 7 of the RPS response, includes the requirement to review vacant and committed out of town centre retail premises to ascertain the scope to accommodate the Go Outdoors requirement elsewhere within the core catchment area.
- 1.4 It is worth noting at the outset that we concluded that the proposal as Go Outdoors (or any retailer selling similar goods) is not likely to have a significant adverse impact on any centre because its range of goods is not widely available in the centres and it would provide a range of goods not readily available in the area. We accepted that the former Waitrose unit in Littlehampton would be too small to accommodate a single unit of 3,000 sq m or thereabouts (allowing for flexibility), although the Council must, of course be careful to consider the suitability of the unit for the broad type of retailing proposed and not the specific retailers requirements.
- 1.5 The difficulty arises with the proposal selling non-food bulky goods, where the impact is likely to be concentrated locally and more flexibility can be expected in the sequential test (see para 3.6 of our main report). While we appreciate that some fall-back position must be catered for if the proposal is to be funded, this does mean that the application has to be assessed on that basis as well. We will therefore concentrate on the fall back scenario in this addendum.

- 1.6 We will now consider the sequential and impact tests in the light of the additional representations made. It should be noted that the report does not repeat matters set out on our main report and the two should be read together.

2.0 The Sequential Approach

- 2.1 We are concerned here with the general bulky goods scenario and we do not consider sites in Bognor Regis are relevant to this scenario – its catchment area is likely to be restricted to the area east of the Arun. We have referred to the alternative scenario as the “Go Outdoors scenario” as convenient shorthand for a general, large scale leisure goods retailer and it is evident that our assessment of the suitability of alternatives is based on this wider approach rather than on the specific needs of Go Outdoors. In the context of the Mansfield approach, we consider that greater weight has to be accorded to the general bulky goods scenario, (although this does not rule out the Council giving weight to special requirements of a retailer provided that it understands the sequential test. Para 35 of the judgment, quoted in para 3.3 of our main report is specifically cast in “general” terms implying that there may be circumstances where an individual retailer’s requirements are relevant).
- 2.2 RPS argues that there is no requirement to disaggregate the proposal. RPS (para 52) comments that the Leamington appeal decision quoted in our report is not case law, or a Secretary of State decision. However, the Inspector at the relatively recent Stanway Inquiry (Ref APP/A1530/W/16/3147039) took a similar “disaggregation” approach before concluding that there were in fact no other suitable sites available in the town centre. The Inspector noted (para 12.3.10) that the extent of flexibility should not be constrained by policy or guidance and that there was nothing in the PPG which suggests that subdivision should not be considered. He went on to note that there will be cases where subdivision is not appropriate and to summarise the “Lionbrook” judgment to the effect that “*suitability*” and “*availability*” are matters of planning judgment for the Council to judge (IR para 12.3.15). The Secretary of State did not disagree with his Inspector on this point and went on to consider the particular sites.
- 2.3 In para 40 RPS states that if the application submitted had been for the whole development (i.e. including the leisure development) then there would have been no question of their being alternative sites available. This overstates its case and, rather than supporting its views on disaggregation, it undermines it. The encouragement of ever larger out-of-centre applications would be counter to the objective of the sequential test and as noted in the Mansfield judgment (para 48) “*The good sense of the planning consequences of any given interpretation may be a guide to its correctness.*”
- 2.4 The assessment of suitability and availability in the context of the sequential test lies with the local planning authority in the first instance and disaggregation (or subdivision) may be relevant to flexibility in particular cases. In relation to the general bulky goods scenario it is relevant because there are no named users or set proposals within the building. However, the question would be largely resolved in this case by a condition to prevent the subdivision of the unit. It is clear that RPS see the alternative to Go Outdoors as being a single occupier. We will examine the sites suitability with such a condition in place.
- 2.5 There is no need to reconsider all the sites in this context since the main sites considered were found to be unavailable rather than unsuitable. The only site to be reconsidered is the former Waitrose unit in Littlehampton. We are not convinced by the additional points made by RPS - particularly that any discussions for the redevelopment involving residential development and unit shops indicates that the site is not suitable for retail use. It simply indicates that a residential development in Littlehampton, in common with many towns, would be more

attractive to a developer than a retail development. However, while the unit could accommodate a considerable proportion of the development proposed, it is clear that it could not accommodate a single retailer looking for a unit on the scale of that proposed. This was our conclusion in relation to the single user leisure goods retailer proposed. Thus with a no-subdivision condition, we conclude the sequential test would be passed in relation to the general bulky goods scenario.

3.0 Retail Impact

3.1 We concluded on the original report that the applicant has failed to demonstrate that the proposal complies with the impact test, but that is not to say that it could not do so. The main points raised in our report were:

- It has assessed the impact on a much narrower range of goods than the proposed condition would allow;
- It has failed to provide any justification for its trade draw assumptions even in that very narrow scenario;
- It has failed to supply sufficient information to allow the calculations to be followed to establish that a coherent and consistent assessment process has been followed; and
- A lack of a cumulative impact assessment taking account of the existing commitments.

A number of more detailed comments were also made. We were however able to conclude that as a Go Outdoors unit, there would be little impact on the town centres because there would be so little overlap between the goods sold by Go Outdoors and in the town centre.

3.2 RPS claims that this would also be the case with bulky goods in general but this is not true. The Arun Retail Study indicates that a significant proportion of the town centre turnovers are derived from the sale of typical bulky goods. The figures from the 2016 update tables are as follows:

	Bulky Goods	Non Bulky	Total Turnover	% Bulky Goods
Bognor Regis TC	£18.49m	£40.45m	£58.95m	31.4%
Littlehampton TC	£6.10m	£16.06m	£22.17m	26.8%
Rustington TC	£6.25m	£10.55m	£16.80m	37.2%

The Council clearly needs to exercise caution with regards to such broad generalisations. It is the case that, depending on the retailer, the trade diversion might be concentrated more on the out-of-centre facilities, but it is clear that the town centre shops will not be immune to impact.

3.3 It is also worth commenting on the health of the town centres at this stage. In para 67 RPS comments that:

Importantly, there is no suggestion that either Rustington or Littlehampton town centres are vulnerable centres which are not performing their designated role and function in accordance with the retail hierarchy. Furthermore, any impacts need to be judged 'significant adverse' in order to fail the impact test. Against this background, it is reasonable to assume that a bulky goods store on the application site would have a limited effect in terms of trade diversion from local town centres.

3.4 The problems facing Littlehampton town centre have in fact been widely recognised. At the

time of the original Retail Study in 2013, our assessment was reasonably positive, buoyed up by the arrival of Waitrose in the town centre but the low level of rents, the lack of retailer demand, the limited provision of national multiples and the weakness of the clothing offer were identified at that time. Retail investment in the centre appeared a possibility but this has now faded. Since then events have moved against the town centre with the closure of the Waitrose store and the failure of commercial investment to come forward. Littlehampton is not unique in this amongst small towns and there is a general lack of confidence in town centre retail development in the context of the sluggish expenditure growth and in particular the growth of internet sales. Rustington is a much more successful centre and has improved its vitality and viability with the accommodation of the new Waitrose store in the centre. The potential impacts of the proposal have to be seen in the context of the centres' differing fortunes.

- 3.5 RPS presents reworked tables in Appendix 3 to its response document. This does consider the impact in the general bulky goods scenario and does adopt a different trade diversion pattern for the Go Outdoors and General Bulky Goods scenarios. However, there is still no explanation of where the trade draw figures come from and there are some significant problems. For instance it is assumed that 12% of the proposal's turnover will be diverted from "Elsewhere in Arun" District in all the tables. This gives a trade diversion of between £1.08m and £1.63m depending on the proposal's turnover estimate. However, this is more than the estimated turnover of the stores elsewhere in the District (£0.58m). This is clearly impossible and gives rise to the calculation of impacts in excess of 100% in the tables. It follows that if the trade diversion from "Elsewhere in Arun" is less, then the impacts from the other locations must be higher. The sum involved is considerable and must amount to at least £0.5m assuming that all the "Elsewhere in Arun" trade is taken. It must be concluded on this basis alone that the impact assessment is not reliable. It is not also clear how the "Elsewhere in Arun" turnover has been calculated.
- 3.6 Tables 4a and 4b also indicate that RPS has assumed that 20% of the proposal's turnover would be diverted from the retail warehouses in the Littlehampton area and 17% from retail warehouses in Bognor Regis. Given the distance to the Bognor Regis warehouse parks, and the separate patterns of shopping in the areas east and west of the river identified by household surveys, this seems highly unlikely and at best calls for a thorough explanation which is not provided. It also appears unlikely that the proposal would attract 10% of its trade from Chichester out-of-centre although it may well be easier to get to the Chichester retail parks from the area east of the Arun than those at Bognor Regis.
- 3.7 Part of the difficulty with these trade draw figures is that they conflate two processes which are usually considered separately in retail impact assessments. Trade draw is defined in the PPG as *"the proportion of trade that a development is likely to receive from within and outside its catchment area"* and not as used by RPS as the proportion of its trade that a proposal would divert from other locations. The difficulty with the RPS approach is that since there is no indication where these locations are currently drawing their trade from, it is difficult to assess how much of it is open to be diverted to the proposal. For instance, without understanding how much of Chichester's retail warehouse trade is derived from the catchment of the proposal, it is difficult to assess how much trade is likely to be diverted from there. It is generally better to assess the trade draw of the proposal in terms of zones within the catchment area (i.e. in line with the definition of trade draw in the PPG) and to then consider where the expenditure in each of the zones would be spent at present. This two stage process was used by Dalton Warner Davis in the assessment on which RPS seeks to rely for town centre turnover estimates.

- 3.8 We commented earlier on the use of turnover figures from DWD 2015 report for the centre turnovers and noted that these are not up-to-date. RPS has continued to use the DWD turnover figures. The reason for doing so appears to be because they take account of the impact of retail commitments on the centre turnovers, but it is not clear from the RPS report which commitments have been included and whether these should be up-dated. There remains a need for RPS to list the commitments it has taken into account and how the turnover figures for the centres have been adjusted to take them into account. In drawing figures from different sources it is far from clear that the figures used by RPS are compatible with each other in terms of date, price base and forecasting assumptions etc.
- 3.9 Finally we noted that although RPS adjusted the town centre turnover estimates to take account of commitments, they had not presented a cumulative impact exercise. The cumulative impact is the combined trade diversion of the proposal and commitments compared with the no-development centre turnover. This has not been addressed in the response document and it remains a significant omission.
- 3.10 Overall we are forced to conclude that the applicant has not provided a reliable estimate of likely retail impact. In particular, we point to the problems with the trade draw we have noted, the use of out-of-date figures derived from a 2015 report, the lack of clarity in relation to commitments and the failure to analyse the cumulative impact. We drew these points to the Council's attention in our main report and they have not been addressed in the RPS response document.
- 3.11 The onus is on the applicant to demonstrate compliance with the impact test (Practice Guidance ref ID 2b-015-20140306). We are reluctant to recommend refusal on a "not demonstrated" basis and recommend that the applicant is invited to submit further information.

4.0 Conclusions

- 4.1 It is concluded that matters arising in relation to the sequential test assessment would be resolved by the imposition of a condition preventing the subdivision of the unit.
- 4.2 However, the problems relating to retail impact have not been addressed. There is no adequate explanation of the trade draw and there is a flaw which means that trade is forecast to be diverted from the “Elsewhere in Arun” category well in excess of its estimated turnover. It is impossible to conclude on this basis alone, the impact test is passed. There is therefore a need to review the trade draw figures and much greater explanation of them is required in any case as some of the other assumptions appear implausible. The impact assessment requires much greater clarity with regards to commitments and cumulative impact should be assessed.
- 4.3 We recommend that the applicant should be invited to address these points, but if it does not do so the Council would have little option but to refuse the application.



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