

PLANNING APPLICATION REPORT**REF NO:** R/210/11/**LOCATION:** Land at Rustington Retail Park
New Road
Rustington**PROPOSAL:** Renewal of unimplemented planning permission R/72/08/ - Alterations to Rustington Retail Park to incl. the demolition of the existing Focus Unit (& associated garden centre), relocation of electricity sub-station, construction of 3 retail units (including garden centre), alterations to car park & associated landscaping alterations**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION	The Application proposals compromise the demolition of the existing Focus Unit (3253 sqm ground floor area). Relocation of electricity sub-station, and the construction of three new retail units, totalling a ground floor area of 2,508 sq. m, plus a mezzanine of 111sq. m for staff/office use, whilst Units 2 and 3 will compromise a ground floor area of 929sq. m. and 743 sq. m respectively, and both will include mezzanine floor cover totalling 465sq.m gross within Unit 2 and 372 sq. m within Unit 3 (total retail floor space is 5,016 sq. m). The proposal also seeks to relocate and enlarge the existing 410 sq. m garden centre currently attached to the existing Focus unit with a 641sq.m replacement.
SITE AREA	1.6 ha
RESIDENTIAL DEVELOPMENT DEN	N/A
TOPOGRAPHY	Predominantly flat though at a lower level than the A259 which runs along the northern boundary.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	Trees and shrubs on three sides
SITE CHARACTERISTICS	Existing DIY Store and Garden Centre compromising the western part of the Rustington Retail Park. A railway line exists to the south and the entire southern boundary benefits from tree cover. A Halfords and Pets at Home Unit abut the application site to the east whilst a Sainsbury's foodstore with associated car parking is situated further east beyond the main access road.
CHARACTER OF LOCALITY	

RELEVANT SITE HISTORY

R/210/11/

R/194/87	35,000 sq ft of ground floor non-food retail warehouse space plus 1,100 sq ft of ancillary offices on first floor with associated vehicle parking to County Planning standards site roads and alterations to existing highways	Approve Cond 10-08-1987
R/72/08/	Alterations to Rustington Retail Park to incl. the demolition of the existing Focus Unit (& associated garden centre), relocation of electricity sub-station, construction of 3 retail units (including garden centre), alterations to car park & associated landscaping alterations	Approve Cond 03-10-2008
R/105/10/	Erection of mezzanine floor	Approve Cond 18-08-2010
R/10/11/	Variation of condition 4 attached to planning application Ref: R/194/87 to allow for the sale of food within the Focus retail unit, Rustington Retail Park; alterations to the external elevations; and a new mezzanine comprising an additional 465sqm retail floorspace.	Approve Cond 15-07-2011
A/206/86	Outline application for 35,000 sq ft non retail warehouse space with associated vehicle parking etc	Approve Cond 14-01-1987
R/231/86	O/L App for 35 000sqft of non food retail warehouse space associated vehicle parking site roads and alt to highway	Approve Cond 14-01-1987

Planning application granted in July 2011 (R/10/11) for food retail on this site is an important consideration in this application.

REPRESENTATIONS

Representations received:

Rustington Parish Council

Rustington Parish Council- no objection

Comments on Representations received:

Comments noted

CONSULTATIONS

WSCC Local Development Divis.

Southern Water Planning

Environment Agency

Sussex Police-Community Safety

Worthing Borough Council

Parks and Landscapes

Environmental Health

Consultations responses received:

County Highways- No objection subject to conditions as previously approved.

Southern Water- No objection

District Council Parks and Greenspace - no objection subject to on the original permission

Sussex Police- No comments

Environment Agency- No objection subject to conditions as previously approved

Comments on Consultation responses:

Comments noted

POLICY CONTEXT

Designation applicable to site:

Within Built up Area Boundaries

Class A road

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:

[GEN2](#)

[GEN7](#)

[GEN12](#)

[DEV26](#)

[DEV27](#)

[GEN9](#)

[GEN18](#)

[GEN32](#)

[GEN33](#)

Built-up Area Boundary

The Form of New Development

Parking in New Development

Criteria for Retail Development

Retail Development Outside the Principal Shopping Areas

Foul and Surface Water Drainage

Crime Prevention

Noise Pollution

Light Pollution

PLANNING POLICY GUIDANCE

PPS4

Planning for Sustainable Economic Growth

POLICY COMMENTARY

PLANNING

The above policies combine to describe the criteria against which the application will be assessed particularly with regard to visual and residential amenity.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

PLANNING

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 comply with relevant Development Plan policies in that it would have no materially adverse effect on the visual amenities of the locality, nor would it have an adverse impact upon the established character of the surrounding area.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

The site lies within the built up area as defined in the Arun District Local Plan where the principle of development is acceptable subject to normal development control criteria.

The proposal concerns the renewal of consent for permission granted by R/72/08. There is an existing DIY retail unit on the site. This proposal is to demolish that unit and erect three units on the land but increase the floorspace by 2,000 square metres.

In 2011 an application was allowed removing previous restrictions on the sale of food. This permission enables significant alterations to the existing store and provision of a mezzanine level providing an additional 465sqm retail floorspace.

These two applications should be distinguished from one another. The application which this report considers does not propose food retail on the site.

Consideration must first be given to the Arun District Local plan policies in light of Section 38(6) of the Planning and Compulsory Purchase Act 2004. However, it can be seen that this plan is not fully up to date. The Local Plan Policies (Specifically DEV 26 Retail Development and DEV 27 Retail Development Outside the Principal Shopping Area) do not materially add to the considerations which would in any event be required by PPS4, and that the Development Plan does not provide any more onerous tests than those found in PPS4. As such the application will be judged against the criteria set out in PPS4.

The proposed scheme is for a main town centre use which is not in a centre. In such circumstances proposals should be assessed having regard to specified impacts on centres under PPS4 policies EC15, EC16, and EC17.

Since the issue of the November 2008 planning consent, PPS4 has been published and the tests for retail planning applications have changed. Whilst the planning policy statement still maintains a town centre first principle, it has removed the requirement to demonstrate retail need.

PPS4 Policy EC17 requires planning applications for main town centre uses not located in town centres should be considered based on two factors:

Test 1) Whether the proposal complies with the requirements of the sequential approach; and
Test 2) Whether there is clear evidence that the proposal will result in a significant adverse impact on any one of the impacts set out in Policy EC10.2 and EC16.1

As such it is necessary to first consider whether there are any sequentially preferable sites (Policy EC15) and if not, then to consider the retail impact.

Test 1): EC 15 Sequential Assessment

Policy EC15.1 sets out the provisions by which the Local Planning Authority should consider sequential assessments. As the application is not in the town centre and as there is not an up to date development plan allocation of the site, it falls to the Applicants to demonstrate compliance with the sequential approach. In particular it requires that all sites are assessed for their availability, suitability and viability. It requires developers to demonstrate flexibility in:

i) Scale of the development;

- ii) Format of the proposal;
- iii) Level of car parking provision;
- iv) Scope for disaggregation

The applicants have submitted a review which has been undertaken of the Arun District Local Plan, Arun District retail studies, existing commitments and discussions with local agents. This includes an up to date sequential assessment of the Littlehampton area. In reviewing potential sites it has been adequately demonstrated that there are no suitable, available, or viable sites within local centres that would be sequentially preferable for the application proposal.

Thus, the applicants have ably demonstrated that no alternative site is suitable, available, or achievable. There is more than enough evidence included in the application to satisfy the first test in PPS4 EC17.1.

As the applicants have not identified any sequentially preferable sites, as described above it is then necessary to consider retail impact.

Test 2) EC 10.2 and EC 16.1 Impact Assessments

In relation to impact, the first question is whether there is clear evidence that the proposals are likely to lead to significant adverse effects in terms of any one of the impacts set out in policies EC10.2 and EC 16.1

EC16.1

Policy EC16.1 indicates that proposals should be assessed against the following criteria:

- a) The impact of the proposal on existing, committed and planned public and. private investment in a centre or centres in the catchment area of the proposal
- b) The impact of the proposal on town centre vitality and viability, including local consumer choice and the range and quality of the comparison and convenience retail offer
- c) The impact of the proposal on allocated sites outside town centres being developed in accordance with the development plan
- d) in the context of a retail or leisure proposal, the impact of the proposal on in-centre trade/turnover and on trade in the wider area, taking account of current and future consumer expenditure capacity in the catchment area up to five years from the time the application is made, and, where applicable, on the rural economy
- e) If located in or on the edge of a town centre, whether the proposal is of an appropriate scale (in terms of gross floorspace) in relation to the size of the centre and its role in the hierarchy of centres
- f) Any locally important impacts on centres under policy EC3.1

EC16.1 criteria c, e, and f are not relevant to this proposal. Criteria C relates to allocated sites outside the town centre being developed in accordance with the plan, of which there are none at present. E is not relevant as the site is not located on the edge of a town centre. Criteria F is not relevant as the most up to date development plan does not set out a strategy for the management and growth of centres over the plan period, and hence this cannot be considered.

It is necessary to consider whether there is clear evidence that the proposals could lead to significant adverse impacts in respect of (d) impact on trade/turnover in the centre, (b) impact on the vitality and viability of the centre, and (a) impact on investment in the centre. Each is dealt with in turn below, but there is of course considerable overlap.

(D) The impact on trade/turnover in the centre.

The Arun Retail Study Update 2010 identified the 2008 permission (R/72/08) for which this application is an application for Renewal, as a commitment in its retail capacity forecasting model. In table 34 of Appendix 6 of this document it is shown that even including existing commitments there would be capacity for comparison goods of 1,300 sqm at 2016. This demonstrates that there is available expenditure for comparison goods available within the catchment area.

As such, as there is existing capacity in the Littlehampton area, it cannot be seen that this application would be likely to cause significant adverse harm to the local town centres.

(B) Impact on the vitality and viability of the centre

The applicants have submitted as part of the application a detailed town centre health check. It concludes that each of the centres affected (Littlehampton Town Centre and Rustington District Centre) are busy centres that accommodate a diverse range of uses.

Because the application site is located adjacent to the A259 it is anticipated that the scheme would encourage linked trips. In addition as the store is restricted to non-food its only occupier would meet the criteria to be identified as a bulky goods type store and in this way will have little impact on the existing town centres.

(a) Impact on investment in the centre

The Littlehampton Vision identifies the key investment document for Littlehampton Town. It sets out a series of investment opportunities in the town centre and edge of town centre locations. There are no major investment scheme anticipated within the town centre and the application is unlikely to undermine investment. Therefore there would be no significant adverse impact arising from the renewal of this planning application.

EC10.2 Assessment

The second part of the impact test cross-refers to those impacts listed in EC10.2. These are:

A) Minimising Carbon Dioxide- the proposal would allow modern, sustainable construction methods to be utilised. The proposal will encourage linked trips with the adjacent Sainsbury's Store and the site. Also it should be borne in mind that the proposed store would be significantly better than the existing retail units on the site which it would replace.

B) Accessibility- the proposed store would be highly accessible by means of transport other than the car for significant proportions of its catchment area. There is a bus stop for many destinations at the neighbouring Sainsbury's, linking the site with Rustington, Wick, Findon, Durrington and Goring.

C) High Quality and Inclusive Design- the proposal would secure a high quality and inclusive design which takes the opportunities available for improving the character and quality of the area and the way it functions; this latter point about taking the opportunities available to improve a

place is particularly important here given that the proposal would replace existing retail units with a far better design and much of the rest of the retail park would be given a "facelift" as well.

D) Social and Economic Regeneration and E) Local Employment can be taken together as they overlap. The proposal would bring a number of positive benefits to the area. The proposal would provide approximately 60 full and part time positions. Within two kilometres of the site there are 2 wards which are within the 20% of most deprived areas nationally. The application proposals would have significant positive impacts in relation to each of these.

Conclusion on Impact

The second test in PPS4 requires an examination of whether there is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of any of the impacts set out in policies EC 10.2 and EC16.1 (the Impact Assessment), taking account of the likely cumulative effect of recent permissions, development under construction and completed developments.

Whereas the first EC 17 test explicitly places the burden on the applicant to demonstrate compliance no such language is used in the second test.

It is important to emphasise that what is required is clear evidence of significant impact i.e. not just speculation or expressions of concerns, fear or unsubstantiated worry. The impact in question needs to be significant i.e. something that would be harmful in a tangible way. The question is whether there is clear evidence that the proposal would cause significant harm, taking account of the likely cumulative effect of existing commitments. As such one should not refuse permission for a proposal because schemes which have already been permitted would cause harm.

In these circumstances given the available evidence, when it comes to the tests set out in PPS4 EC17.1b, there is not clear evidence that the proposal would be likely to lead to significant adverse retail impacts on Littlehampton Town Centre.

Overall Conclusion

The above matters relating to impact on economic and physical regeneration, employment, accessibility, design and climate change are listed in PPS4 Policy EC.10.2 and EC. 16. From the foregoing it can be seen that the proposals would have no significant impact on these issues. Furthermore, there would be no clear impact on the retail trading of the town centre shops as a result of the proposals by reason of the schemes nature and scale.

There is no clear evidence to demonstrate that the proposals would be likely to lead to significant adverse effects in terms of the impacts set out in policies EC10.2 and EC16.1.

The proposed scheme would result in a significant sustainable economic investment, job creation and regeneration of the currently vacant site. These would be substantial benefits of the proposals. There would not be significant trade diversion away from the town centre and from other shops there. Furthermore, there is no clear evidence to suggest that the town centre would not continue to be successful and that any stores shops would close as a result of competition from what would be, in PPS4 terms, an out of centre store.

As such, based on the considerations outlined above, the application should be approved subject to the conditions set out below.

RECOMMENDATION

APPROVE CONDITIONALLY

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended)

- 2 No development shall be carried out unless and until a schedule of materials and finishes and samples of such materials and finishes to be used for external walls and roof of the proposed buildings have been submitted to and approved by the Local Planning Authority and the materials so approved shall be used in the construction of the buildings.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity/setting of the the Listed Building/ by endeavouring to achieve a building of visual quality in accordance with policy GEN7 of the Arun District Local Plan.

- 3 No development shall take place until there has been submitted to, and approved by, the Local Planning Authority, a landscaping scheme including details of hard and soft landscaping and details of existing trees and hedgerows to be retained, together with measures for their protection during the course of the development. The approved details of the landscaping shall be carried out in the first planting and seeding season, following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which, within a period of five years from the completion of development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.'

Reason: In the interests of amenity and of the environment of the development in accordance with policy GEN7 of the Arun District Local Plan.

- 4 No development shall take place until details of screen walls and/or fences have been submitted to and approved by the Local Planning Authority and no buildings shall be occupied until such screen walls and/or fences associated with them have been erected.

Reason: In the interests of amenity in accordance with policy GEN7 of the Arun District Local Plan.

- 5 The buildings shall not be occupied until the parking spaces and turning facilities shown on the submitted plans have been provided and constructed. The areas of land so provided shall not thereafter be used for any purpose other than the parking and turning of vehicles.

Reason: To ensure that adequate and satisfactory provision is made for the accommodation of vehicles clear of the highways in accordance with policy GEN7 of the Arun District Local Plan.

- 6 The use of any land for car parking shall not be commenced until it has been laid out, surfaced and drained and such land shall not be used thereafter for any purpose other than the parking of vehicles.

Reason: To ensure a satisfactory standard of development in accordance with policy GEN7 of the Arun District Local Plan.

- 7 The building hereby permitted shall not be occupied until space has been laid out within the site in accordance with details approved by the Local Planning Authority for the turning of vehicles clear of the public highway and such space shall not thereafter be used other than as a turning area.

Reason: In the interests of road safety in accordance with policy GEN7 of the Arun District Local Plan.

- 8 The development shall not proceed until details of the proposed surface water drainage and means of disposal have been submitted and approved by the Local Planning Authority. Surface water drainage will be carried out in accordance with such details and in conjunction with associated building works.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of the proper overall planning of the site in accordance with policies GEN7, GEN9 of the Arun District Local Plan.

- 9 No works pursuant to this planning permission shall be carried out until details of the position and intensity of all lighting fittings shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: To enable the Local Planning Authority to control the development in detail in accordance with policy GEN7 of the Arun District Local Plan.

- 10 The retail warehouse hereby permitted shall not be used otherwise than for the sale of furniture and floorcoverings; domestic electrical and gas appliances; cycles and cycle parts and accessories; pets and pet supplies; stationary and office supplies and equipment; hardware, DIY goods and decorators' supplies, and garden products; and goods and services for the repair and maintenance of motor vehicles; and for no other purpose (including any other purpose in Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 2005, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: To protect the vitality and viability of the town centre and the prospect of town centre developments in accordance with PPS4 and policy DEV 27 of the Arun District Local Plan.

- 11 If during development, any visibly contaminated or odorous material not previously identified is found to be present at the site it must be investigated. The local planning authority must be informed immediately of the nature and degree of contamination present. The developer shall submit a Method Statement which must detail how this unsuspected contamination shall be dealt with.

Reason: To ensure that the development complies with approved details in the interests of protection of controlled waters in accordance with PPS23 Planning and Pollution Control.

- 12 The Local Planning Authority shall be informed in writing immediately of any items or archaeological interest unearthed during the building operation and given a reasonable opportunity for an examination of the artifact and the site where it was found.

Reason: To enable items of archaeological interest to be recorded in accordance with the policy AREA 17 of the Arun District Local Plan.

- 13 The development hereby approved shall not be occupied until a Travel Plan completed in accordance with current advice from the Department of Transport has been submitted to and approved by the Local Planning Authority.

Reason: To promote and encourage sustainable transport amongst staff in accordance with policy GEN14 of the Arun District Local Plan.

- 14 All external glazing should be laminated. Final exit doors and windows shall accord with LPS1175 SR3. Final doors which open outwards should have hinge bolts.

Reason: To help crime prevention in accordance with GEN18 of the Arun District Local Plan.

- 15 INFORMATIVE: The applicant should note that under Part 1 of the Wildlife and Countryside Act 1981, with only a few exceptions, it is an offence for any person to intentionally take, damage or destroy the nest of any wild birds while the nest is in use or being built. Birds nest between March and September and therefore removal of dense bushes, ivy or trees or parts of trees etc. during this period could lead to an offence under the act.

- 16 INFORMATIVE: Summary of Reasons for Grant Article 31 Development Management Procedure Order 2010

SUMMARY

This planning permission is granted because it complies with the policies listed below in that the development would not cause any material adverse effect on visual amenity on the surrounding area and its character and there are no material considerations to indicate otherwise.

RELEVANT POLICIES

LOCAL PLAN: GEN2, GEN 7, GEN9, GEN12 GEN18, GEN26, GEN27, GEN32, GEN33

NATIONAL POLICIES: PPS1

This is only a summary of reasons for granting to comply with Article 31 and full reasons appear in the Officer report.