

Report following a request for further information or negotiation

REF NO: BE/23/14/PL

LOCATION: Adjacent Warehouse site to
McDonalds
Oldlands Way, Bersted

PROPOSAL: Change of use from Class B8 (Storage or Distribution) to Class A1 (Shops)
including partial demolition

At the Committee Meeting held on the 24th of September 2014, members voted in favour of approving the application subject to conditions for approval being developed and these being reported back to the next meeting.

The recommendation within the attached report is therefore null and void. Instead the following conditions are proposed.

However, members should also note that an amended site plan has been received which omits the proposed hardstanding and green palisade fence to the rear of the building. This amendment is reflected in the list of plans in condition 02 below.

The proposed conditions follow:

(1) Time Limits - 3 years full permission

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) List of plans/drawings

The development hereby approved shall be carried out in accordance with the following approved plans:

Location Plan Ref 593-PL(00)001;
Site Plan as Existing Ref 593-PL(00)002;
Existing Site Plan Ref 593-PL 001;
Site plan as Proposed (Single Unit Option) Ref 593-PL(00)013 Rev B (01/10/14);
GA Plan as Existing Ref 593-PL(00)004;
Elevations as Existing Ref 593-PL(00)005;
Elevations as Proposed Ref 593-PL(00)007; and
GA Plan as Proposed Ref 593-PL(00)006.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy GEN7 of the Arun District Local Plan.

(3) Retail Restriction

The retail premises hereby permitted shall only be used for the sale and the display of the following goods:

- DIY Supplies;
- Electrical Goods;
- Gardening requirements;
- Floor Coverings;
- Household Hardware;
- Furniture; and
- Car Accessories.

And for no other purposes (including any other purpose in Class A1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 as amended) without the prior permission in writing of the Local Planning Authority. Goods falling outside this range including seasonal goods may be sold only where they form a strictly minor and ancillary part of the proposed store's operation.

Reason: To protect town centre viability, in accordance with the NPPF and policies DEV26 and DEV27 of the Arun District Local Plan 2003.

(4) Materials - Schedule of materials for Walls/Roof

No development shall be carried out unless and until a schedule of materials and finishes to be used for the external walls of the proposed new east frontage have been submitted to and approved by the Local Planning Authority and the materials so approved shall be used in the construction of the new east frontage.

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

(5) Opening Hours

The retail store shall only be open for trade between the hours of 07.00 and 23.00 Monday to Saturdays and will comply with the Sunday Trading Act 1994 (or subsequent replacement) on Sundays. Except for the week (7 days) immediately before Christmas Day and for the week (7 days) immediately before Easter Sunday, when the retail store shall only be open for trade between the hours of 06.00 and 24.00 Monday to Saturday and will comply with the Sunday Trading Act (or subsequent replacement) on Sundays.

Reason: To comply with Arun District Local Plan policy GEN32, and to protect the amenity of the area.

(6) Environmental Health (Lighting)

External lighting in association with this development shall comply with Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light, Obtrusive Light Limitations for Exterior Lighting Installations for Zone E3.

Reason: To control the residential amenities of the local environment in accordance with Arun

District Local Plan policies GEN7 and GEN33.

(7) Parking, Turning & Loading

The retail store shall not be occupied unless and until space has been laid out within the site in accordance with drawing Ref 593-PL(00)013 Rev B (01/10/14) for the parking of customer cars, staff cars, disabled vehicles & bicycles, for the loading & unloading of delivery vehicles and for vehicles to turn so that they may enter and leave the site in forward gear. The approved parking and turning areas shall thereafter be retained for the approved use.

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

(8) Travel Plan

No building or use hereby permitted shall be occupied or the use commenced until a Travel Plan comprising immediate, continuing and long-term measures to promote and encourage alternatives to single-occupancy car use has been prepared, submitted to and been approved in writing by the Local Planning Authority. The approved Travel Plan shall then be implemented, monitored and reviewed in accordance with the agreed travel Plan Targets to the satisfaction of the council.

Reason: In order to deliver sustainable transport objectives including a reduction in single occupancy car journeys and the increased use of public transport, walking & cycling.

(9) Access

No part of the development shall be first occupied until such time as the vehicular access serving the development has been constructed in accordance with the approved drawing 593-PL(00)013 rev B , subject to any modification required as a result of a Stage 1 and 2 Road Safety Audit and agreed in writing by the Local Planning Authority.

Reason: In the interests of road safety in accordance with policy GEN7 of the Arun District Local Plan and the National Planning Policy Framework.

(10) Visibility

No part of the development shall be first occupied until visibility splays of 2.4 metres by 43 metres have been provided at the proposed site vehicular access onto Oldlands Way. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metre above adjoining carriageway level or as otherwise agreed.

Reason: In the interests of road safety in accordance with policy GEN7 of the Arun District Local Plan and the National Planning Policy Framework.

(11) Landscaping & Wildlife - submission of scheme

The premises shall not be occupied unless and until there has been submitted to, and approved by, the Local Planning Authority, a landscaping scheme including details of hard and soft

report

landscaping (to the front & rear of the site) 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.

(12) Boundary Treatments

No development shall take place until details of any new boundary treatments (fences or walls) have been submitted to and approved by the Local Planning Authority and the building shall not be occupied until such boundary treatments associated with it have been erected.

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

(13) External Storage

There shall be no external storage on the rear part of the site between the building and the boundary with the A29.

Reason: To safeguard the visual amenities of the locality in accordance with policy GEN7 of the Arun District Local Plan.

(14) Permitted Development Rights - Part 42

Notwithstanding the provisions of Part 42 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order, 1995 (or any Order revoking or re-enacting this Order) no extensions to the retail premises shall be constructed or buildings shall be erected within the curtilage unless permission is granted by the Local Planning Authority on an application in that behalf.

Reason: To maintain the area of parking and safeguard the cohesive appearance of the development in accordance with policy GEN7 of the Arun District Local Plan.

(15) Employment and Skills Plan

The applicant shall prepare and submit for approval an Employment and Skills Plan for the occupation phase of development. Following approval of the Employment and Skills Plan the occupier will implement and promote the objectives of the approved plan. The occupier shall provide to the Local Planning Authority with reports outlining the achievements against the Employment and Skills Plan targets and provide details of the employment and skills activities delivered in that time. There shall be no occupation of the buildings hereby approved until such a Plan has been submitted to, and agreed in writing by, the Local Planning Authority.

Reason: in accordance with policies in the Emerging Local Plan.

(16) INFORMATIVE:

Statement pursuant to Article 31 of the Town and Country Planning (Development Management Procedure)(England) (Amendment No. 2) Order 2012. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

REPORT UPDATE

Application No: BE/23/14/PL

Reason for the Update / Changes

Reason for Update/Changes:

The proposed planning conditions have been reviewed by the applicant and some changes have been agreed. These are as follows:

(1) In respect of proposed condition 03, after reviewing the GL Hearn Retail Impact Assessment Review report, it is clear that the recommendation was not to restrict the use to bulky goods only but to prevent the sale of food, fashion and footwear. Accordingly, it is recommended that members consider the revised condition below:

The retail premises hereby permitted shall be used for the purposes of Class A1 Retail excluding the sale of food, fashion and footwear. Goods falling outside this range including seasonal goods may be sold only where they form a strictly minor and ancillary part of the proposed store's operation.

(2) In respect of proposed condition 07, the applicant pointed out that the submitted plans show that delivery vehicles will reverse into/out of the site. Therefore, it has been agreed with WSCC Highways that the condition be amended to make it clear that the turning facilities are only in respect of passenger vehicles. The condition is amended by the insertion of the word passenger as per the following:

The retail store shall not be occupied unless and until space has been laid out within the site in accordance with drawing Ref 593-PL(00)013 Rev B (01/10/14) for the parking of customer cars, staff cars, disabled vehicles & bicycles, for the loading & unloading of delivery vehicles and for passenger vehicles to turn so that they may enter and leave the site in forward gear. The approved parking and turning areas shall thereafter be retained for the approved use.

The applicant also queried proposed conditions 05 (store hours) and 15 (Training Plan). However, it is not proposed to alter these. The store hours condition has been based on the permission recently granted for M&S and Next on the Arun Retail Park and it is considered appropriate to propose the same opening hours. The Training Plan is considered to be relevant for a development of this size/nature and on a site close to an Enterprise Zone.

Officers Comment:

The two amended conditions are shown as part of the attached amended sheet.

Notes: Changes to recommendations, conditions and / or reasons for refusal will always be reflected in the recommendation section of the attached Officer's Report/Recommendation.

BE/23/14/PL

Recommendation Report for Planning Permission

REF NO: BE/23/14/PL

LOCATION: Adjacent Warehouse site to
McDonalds
Oldlands Way, Bersted

PROPOSAL: Change of use from Class B8 (Storage or Distribution) to Class A1 (Shops)
including partial demolition

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

This is a change of use from Class B8 (Storage or Distribution) to Class A1 (Retail). The application includes the demolition of part of the building on the eastern elevation (approx. 808 sqm). This would leave a building of 2490 sqm. 82 car parking spaces would be provided. It is proposed to erect a green palisade fence around the rear of the site and hardsurface this area.

SITE AREA

0.5 Hectares.

RESIDENTIAL DEVELOPMENT DENSITY

N/A.

TOPOGRAPHY

Predominantly flat.

TREES

There are 3 small trees on the Oldlands Way frontage but they are not considered to be of any significance and the proposed site plan suggests that only 1 will need to be removed.

BOUNDARY TREATMENT

There is currently a two bar ranch style fence along the Shripney Road frontage but this is broken in several places. The site is open to the frontage with Oldlands Way. There is a green palisade fence along the side boundary between the unit and McDonalds.

SITE CHARACTERISTICS

The application site comprises of a 2 storey warehouse type building currently vacant but understood to have previously been used by "F&G Transport (Bognor) Ltd Storage and Distribution". There is a parking area to the front of the building which comprises of 10 marked out car parking spaces and unmarked hard standing suitable for the parking of larger vehicles. The frontage onto Shripney Road is currently grassed.

CHARACTER OF LOCALITY

The area is part of a long established industrial estate comprising of several large warehouse type industrial units. There is a Travis Perkins builder's yard opposite the site and a MacDonalds a short distance to the north. There is on street parking available on Oldlands Way.

RELEVANT SITE HISTORY

BE/17/12/	Demolition of existing office unit & construction of a free-standing two storey restaurant with associated drive thru & car parking	ApproveConditionally 05-07-2012
BE/126/12/NMA	Application for a non-material amendment following a grant of planning permission BE/17/12 - reconfiguration of the drive-thru lane	Approve 05-09-2012
BE/166/12/NMA	Application for a non-material amendment to reconfigure the drive thru lane to provide a side by side order point with the installation of 2 No customer order displays with associated canopy	Approve 21-11-2012
BE/107/13/	Change of use from Class B8 (Storage or Distribution) to Class A1 (Shops) including partial demolition.	Withdrawn 04-02-2014
BE/95/79	Proposed cycle and motor cycle store extension to warehouse and office	ApproveConditionally 14-11-1979
BE/148/85	Formation of mezanine floor to create additional office space	ApproveConditionally 25-11-1985

A Pre-application enquiry was received in late 2013. The proposal at that time was for a change of use to a 'warehouse for building supplies', for example a Travis Perkins or Wickes. This was considered to be acceptable in this location given the bulky nature of goods and the likely trade customer focus.

A previous application for the change of use (BE/107/13/) to retail premises was withdrawn due to there not being time to submit a Retail Impact Assessment and a Transport Assessment.

REPRESENTATIONS**Representations received:**

Bersted Parish Council

Bersted Parish Council - no objection.

8 letters of support have been received. None of these are from residents of the Arun District. However, 1 letter states that they drive down the road regularly. The grounds of support is as follows:

- The proposal builds on the regeneration by Sainsbury's, McDonalds and the Skate Park;
- The proposal would be good for Bognor & provide jobs & economic regeneration;
- The warehouses are unattractive and dilapidated. The proposal will make the entrance to Bognor nicer;
- Little demand for tired warehouses in the area;
- The proposal will encourage further regeneration in this area;

Comments on Representations received:

The support for the proposal is noted but is in contrast to the advice from the Councils Economic Regeneration Officers (as reported below). In addition, it is not considered that the proposal will enhance the appearance of this entrance to Bognor Regis. There are no plans to alter the building elevation to Shripney Road and the proposed hard landscaping and green palisade fence will only give the site a more industrial appearance.

CONSULTATIONS

Economic Regeneration
Highways Agency
Engineering Services Manager
Engineers (Fluvial Flooding)
WSCC Strategic Planning
Economic Regeneration

Consultations responses received:

Arun DC Economic Regeneration - Economic Development would object to this proposal for the following reasons.

1. Loss of industrial floorspace. This is a modern purpose built unit on an established industrial estate which needs to be safeguarded for industrial use. The application mentions a number of units south of the application site which are also vacant. As of today (24th June 2014) the 2 smaller units 5 & 6 to the south of the site are vacant, unit 4 has a Let Agreed sign, unit 3 is being refurbished but has an F&G Transport sign on it and unit 2 is occupied by F&G Transport. That leaves the one remaining unit. The requirement for industrial space has shown a marked increase over the past few months and with the likelihood of a new occupier on a large site close by we envisage demand for industrial space will increase further.

2. Diversion of trade from Bognor Regis town centre. A large retail use such as this would have a significant impact upon both investment in the town centre and the vitality and viability of the town centre. This would adversely impact on the town regeneration and the sites that are being brought forward.

WSCC Highways - The Local Highway Authority (LHA) has reviewed the submitted Transport Assessment (TA). They have concerns with this document regarding likely trip generation figures. They also note that the proposed new access from Oldlands Way does not include details of the required visibility splay. They note that a Road Safety Audit: Stage 1 and Designer Response have not been submitted. Finally, they are concerned that no information has been provided in respect of alternative methods of accessing the site other than by car. Accordingly they object to the application and recommend refusal.

Highways Agency - No objection.

Arun DC Drainage Engineers - No comments regarding this application.

In addition to the above, the Council obtained a review of the submitted Retail Impact Assessment. This was produced by GL Hearn and is available in full on the website. The report's conclusions were as follows:

Having reviewed the retail aspects of the Chainridge Limited proposals for Oldland Way, we consider that:

1. With regard to the sequential test that the applicant should be asked to submit further information on the suitability and availability of the Hothampton site to accommodate their proposed retail development scenarios having due regard to the requirements for flexibility in assessing alternative site options.
2. The impact of an unrestricted non-food comparison goods proposal (clothing and footwear scenario) would have a significant impact upon both investment in the town centre and the vitality and viability of the town centre.
3. Bulky goods and mixed comparison users of the site would not have significant adverse impact upon investment within or the health of the town centre.

In addition, GL Hearn stated in respect of food retail at paragraph 72 that:

Whilst the impact upon the town centre of a foodstore on the proposal site would not in our view be significantly adverse, in the circumstances where the proposal could be accommodated within the town centre, we do not consider that the use of the site for food retailing as proposed should be allowed and a condition should be applied to resist primarily food based retailing.

Comments on Consultation responses:

With regard to the Economic Regeneration comments, the applicant has made the following comments:

EMPLOYMENT LAND - This warehouse has been empty for some considerable time and over the last two years has been extensively marketed by Stiles Harold Williams. The only viewings are as per the attached letter (5 viewings up to end of June 2014). The warehouses were found to be unsuitable in all cases. There is a viewing only about every three months. There is absolutely no evidence of demand and that is why we have been looking for an alternative use. National Planning Policy has a clear presumption in favour of changes of use like this unless there is possible harm which demonstrably outweighs any benefit.

TOWN CENTRE IMPACT - The comments about retail impact in the town centre have been made off the cuff and are completely unsubstantiated. Miriam Nicholls is not an expert on retail development. The Council's own assessment by GL Hearn concurred with our study and the Retail Impact was found not to be detrimental. Our proposal will bring large employment onto a hitherto under-utilised site. We have heads of terms with B & M that are ready to come to Bognor; a very large respected retailer.

I would also add that this week we have had to deal with Travellers on the site; a repeat of last year. Really, we need to bring this building into some use as soon as possible; so as to avoid security issues and anti-social conduct.

A word on this part of the road. The old office building on the corner was demolished and a brand new McDonalds was established to give vibrancy and jobs. Security is also enhanced by their presence. As you well know the whole row of warehouses have been trying to find alternative uses; the skate park, the exhaust centre, etc. We are all trying to find some use for empty unwanted old warehouses. They are now 35 years old. That is why Wileys moved out and why new developments are being built. The new Sainsburys brought a new vitality to the area.

The road has changed and the demand for occupiers has changed. We are just trying to accommodate a latent need. Here is a genuine opportunity to bring regeneration to Bognor. The late objection by Miriam Nicholls is quite spurious. At the beginning of this application process, you gave us a positive pre-app for A1 Bulky Goods. We were given a list of documents to file. Very late in the application process, you requested a Retail Impact Study despite the fact that one was not requested at the start and that the National Planning Framework excluded the requirement where the size of the unit was less than 2,500 sq m (unless the local plan had a specific requirement which I believe it does not) There was never any mention of any objection on "employment" before and it just appeared a month ago!

The approach to our application has not been handled entirely openly. There seems to be an agenda behind the scenes to block this application. There is a National Policy Framework that is not being adhered to. I would respectfully ask that these comments are placed on file and drawn to the attention of members.

In response to GL Hearn's Review of the Retail Impact Assessment, the applicant has made the following comments:

Further to my recent email, I would respond as follows: -

- i. GL Hearn accept that there is no adverse impact on the vitality and viability of the town centre from retail proposals comprising bulky goods and mixed use comparison.
- ii. GL Hearn indicate that the impact on the town centre from food retailing is acceptable.
- iii. GL Hearn have a concern about the impact around clothing and footwear where they conclude that £4.7m would be diverted from the town centre. This is almost double our estimate and seems particularly high but in any event it would mean that the town centre trades almost £5m above 2012 levels in 2013.
- iv. With regards the sequential assessment this relates to the Hothampton car park site which appears to be proposed for a mixed use development. St Modwen suggest that interest from retailers have requirements for between 15,000 sq ft to 18,000 sq ft. The indication is that the site could accommodate the Aldi food store format or clothing and footwear.

The applicants have interest from a wide range of retail end users which is why they have applied for Open Class A1 retail following pre application discussions. However the proposal is for a single unit of 2,450sqm with associated car parking and servicing. The Hothampton car park is clearly not large enough to accommodate such a single user if restricted to bulky goods/or mixed use comparison. The applicant is prepared to restrict the retail consent to the end users. Accordingly the proposals in that context meet the sequential assessment i.e. the Hothampton site cannot accommodate this size of unit.

We would add however that whilst the applicants are prepared to make that concession this should not be taken as an indication that we accept the GL Hearn conclusion in respect of food

and clothing and footwear.

GL Hearn did not wish to make any further comments. It is therefore considered that GL Hearn's request for further information as to why the Hothampton site is not suitable has been satisfactorily dealt with.

POLICY CONTEXT

Designations applicable to site:

Within Built Up Area Boundary;
No Public Sewer; and
Class A Road.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:	GEN2 GEN7 GEN12 DEV27	Built-up Area Boundary The Form of New Development Parking in New Development Retail Development Outside the Principal Shopping Areas
Publication Version of the Local Plan (October 2014):	D DM1 Aspects of Form and Quality D DM4 Extensions & Alterations to Existing Buildings SD SP2 Built -Up Area Boundary RET DM1 Retail Development	

PLANNING POLICY GUIDANCE

NPPF

National Planning Policy Framework

POLICY COMMENTARY

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

The Development Plan consists of the Arun District Local Plan 2003.

Paragraph 215 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight. The weight afforded to the policies with Local Plan policies can be assessed according to their level of consistency of the various policies with the National Planning Policy Framework. It should be noted that the NPPF states that weight is given to individual policies and not to the plan as a whole.

NPPF Paragraph 216 confirms that weight can be given to policies in emerging plans following publication. The Council agreed the majority of the Arun Local Plan in February 2014 (Publication Version) and this is a material consideration in the determination of this planning application. The remaining chapters of the Local Plan namely: the Spatial Portrait, Employment & Enterprise, Housing Allocations, Transport, Monitoring and Implementation will be considered for publication at a later meeting of Full Council. Following 'publication' of the Local Plan a formal public consultation, examination and adoption process takes place. The chapters that have been published will undergo public consultation alongside the remaining chapters when they have been agreed. The weight given to the current published policies can be significant depending:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);
- the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

The policies within this published version of the plan are at an advanced stage as they have been agreed by Full Council for regulation 19 consultation, they have been subject to independent audit and are considered to meet the NPPF and there are no known significant unresolved issues arising from regulation 18 consultation for the published policies.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The statement of representations procedure and statement of fact produced by the Council under regulation 19 explains that the consultation will take place once the remaining chapters / policies have been published.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation (Reg.14).

The Bersted Neighbourhood Development Plan has not yet been made. It will be subject to a referendum on the 23rd of October 2014.

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 not considered to comply with relevant Development Plan policies in that it has the potential to impact on the vitality and viability of the town centre, in that it will result in the loss of important B class employment floorspace, in that it would be detrimental to the local highway network and that it would 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 PROPOSAL

It is proposed to change the use of the warehouse premises from B8 (Storage or Distribution) to A1 (Retail). The application includes the demolition of part of the building on the eastern elevation (approx. 808 sqm) and the enlargement of the car park from 10 to 82 spaces. The application also proposes the erection of a green palisade fence enclosing the Shripney Road frontage which will be hard landscaped.

PRINCIPLE OF DEVELOPMENT & LOSS OF EMPLOYMENT LAND

This site is located within the built-up area boundary where the principle of development is acceptable subject to other policies within the local plan. There are currently no policies within the adopted Local Plan which protect existing employment land. The Emerging Local Plan will include such policies but these have not yet been approved by Full Council for development management purposes and therefore carry little weight. Notwithstanding, the relevant Emerging Local Plan policy would be EMP DM1 "Employment Land: Development Management". This sets out first how existing premises will be protected and enhanced in order to maintain a supply of good quality commercial sites and premises to meet the needs of businesses and the local economy. It lists the ways in which existing employment areas will be upgraded. The second part of the policy states that: "Existing employment sites and premises will be protected where there remains a good prospect of employment use" and that changes of use to non B class uses will be resisted unless certain criteria can be met.

As reported above, Economic Regeneration Officers object to his application on the basis of the loss of the industrial floorspace. They consider that this unit is a modern purpose built unit located on an established industrial estate and that this should therefore be safeguarded for industrial use. Economic Regeneration considers that the requirement for industrial space has shown a marked increase over the past few months. They also consider that with Rolls Royce moving onto a nearby site, that there will be increased demand for industrial space in this location.

The National Planning Policy Framework provides guidance that is relevant to the determination of this application. It states at paragraph 18 that: "The Government is committed to securing economic growth in order to create jobs and prosperity, ...". It goes on to state at paragraph 20 that: "To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century". It is considered that existing industrial estates which are fit for purpose and in accessible locations away from residential areas (such as this one) should be protected in order to meet the future demands of the district.

The Southern Cross Industrial Estate is considered to be an attractive location for new B class type businesses considering moving into the district or relocating from elsewhere. This is evidenced by the recent planning applications for units 3 and 7 (both for motor repair type uses with one business relocating from Chichester and the other relocating from the Arun Retail Park). It is also clear from information on the internet that there is currently strong growth reported in the manufacturing sector. RICS's website states with regard to the UK Commercial Market Survey for

Q3 2013 that "Turning to other parts of the commercial market, as demand from potential commercial tenants rose, the amount of available premises decreased, especially in terms of offices and industrial space". In addition RICS UK Commercial Market Survey UK for quarter 1 of 2014 states: "The Q1 2014 RICS UK Commercial Property Market Survey highlights a continued strengthening in both the occupier and investment sectors. This improvement is becoming increasingly broad based in both sectoral and regional terms; this is no longer just a London offices story." Furthermore, that: "Over the next twelve months, rents are projected to rise by around 4.5% in the office sector, by approximately 5.5% in the industrial segment and by just over 3% in the retail sector."

As indicated above, Arun District Council has recently approved planning applications for premises north of Oldlands Way, one of which is to be taken on by Rolls Royce. It is considered that the occupation of these new premises will help to regenerate the existing area as these new companies will generate demand locally for 'feeder businesses'. It is therefore considered important to maintain the attractiveness of the estate in order to ensure that the expected future demand and investment is not lost. Allowing the proposed A1 retail use in this location would send out the wrong signals to the market and could damage the attractiveness of the estate to future investors.

In terms of the National Planning Policy Framework, it is noted that paragraph 22 of the NPPF states that "Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose and that land allocations should be regularly reviewed". The paragraph goes on to say that: "Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities."

However, it is clear to officers that this unit has only recently been refurbished and that therefore it is premature to say that there is no reasonable prospect of this site being used for the allocated employment use - particularly given that two nearby units have recently received planning permission for B2 car repair type uses. It is therefore considered appropriate to maintain the protection of this purpose built, well connected and ideally located industrial unit in order to ensure that there is sufficient floorspace for a future industrial type occupier.

IMPACT ON THE VITALITY & VIABILITY OF THE TOWN CENTRE

As reported above, Economic Regeneration Officers consider that the proposed change of use will divert trade from Bognor Regis town centre. They consider that a large retail use such as this will have a significant impact upon both investment in the town centre and the vitality and viability of the town centre. However, the applicants have submitted a Retail Impact Assessment and this has been independently reviewed. It is considered that more weight should be given to the outcome of this process than to these comments.

The Local Plan contains Policy DEV27 "Retail Development outside the Principal Shopping Areas", which is relevant to this application. However, it is also out of date having been written during the time of Planning Policy Guidance Note 6. This was then replaced by Planning Policy Statement 6 in 2005 and then by the National Planning Policy Framework (NPPF) in 2012. It is therefore also necessary to consider Policy RET DM1 "Retail development" within the emerging

Local Plan (Publication Version). This has been approved by full Council for development management purposes and therefore has some weight. It has also been written to be in accordance with the NPPF. Notwithstanding, there is only one main difference between the two policies - that 'need' no longer has to be proven (the NPPF is also clear that need no longer has to be proven).

Both policies include similar criteria albeit that RET DM1 references the impact tests in the NPPF. For clarity, paragraphs 26-27 of the NPPF state that:

"When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m). This should include assessment of:

- 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; and
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made."

"Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused."

In addition, both policies also require a sequential assessment and both indicate that restrictions may be imposed on the types of goods that can be sold. Policy DEV27 states that the following criteria have to be complied with:

- (i) the proposal does not adversely affect the vitality and viability of the Principal Shopping Areas and local shopping areas, either as an individual development or cumulatively with similar existing or proposed developments;
- (ii) it is easily accessible by the highway network and public transport;
- (iii) it includes provision for access by cycle and on foot; and
- (iv) it includes appropriate provision to enable access for people with disabilities.

Policy RET DM1 replaces (i) with "The scheme meets the impact tests of the NPPF". Items ii-iv are discussed below under IMPACT ON THE LOCAL HIGHWAY NETWORK. Therefore, we now deal with the vitality & viability aspect.

The applicants have submitted a Retail Impact Assessment (including a Sequential Assessment) as part of this planning application. This was then independently reviewed by GL Hearn. Their report concluded that:

1. With regard to the sequential test that the applicant should be asked to submit further information on the suitability and availability of the Hothampton site to accommodate their proposed retail development scenarios having due regard to the requirements for flexibility in assessing alternative site options.
2. The impact of an unrestricted non-food comparison goods proposal (clothing and footwear

scenario) would have a significant impact upon both investment in the town centre and the vitality and viability of the town centre.

3. Bulky goods and mixed comparison users of the site would not have significant adverse impact upon investment within or the health of the town centre.

In addition, paragraph 72 of the Review stated in respect of food retailing that: "Whilst the impact upon the town centre of a foodstore on the proposal site would not in our view be significantly adverse, in the circumstances where the proposal could be accommodated within the town centre, we do not consider that the use of the site for food retailing as proposed should be allowed and a condition should be applied to resist primarily food based retailing.

It is clear that the Hothamton site in Bognor Regis City Centre could accommodate an Aldi food store (or similar). For this reason, it is considered inappropriate to allow a new food retail use outside of Bognor Regis town centre. It is also noted that the recent Oldlands Farm permission (located just north of Oldlands Way) included a restriction on food retailing.

The applicants provided further comments in respect of point (1) and this was accepted by GL Hearn. It is therefore considered that the sequential assessment is acceptable and that this part of the policy has been complied with. The recommendations in respect of (2) and (3) were agreed by the applicant (although they made it clear that whilst they agreed the concession, they did not accept the conclusions in respect of food, clothing & footwear). They also stated that a restriction to bulky goods and mixed comparison users would be appropriate to the likely end user - named as B&M Retail Ltd.

It is therefore considered that if the retail use was restricted to bulky goods and mixed comparison users then there would be no harm to the vitality and viability of the town centre. For this reason, it is considered that subject to appropriate conditions, the first criteria in Policies DEV27 and RET DM1 can be satisfied. However, given that the recommendation of this report is to refuse, a reason has been added to make it clear that food retail, clothing and footwear would be detrimental to vitality and viability of the town centre.

IMPACT ON THE LOCAL HIGHWAY NETWORK

As set out above both Policies DEV27 and RET DM1 include criteria that must be complied with in respect of accessibility by the highway network, by public transport, by cycle, by foot and by people with disabilities. West Sussex County Council (WSCC) Highways have assessed the submitted Transport Assessment (TA) against the National Planning Policy Framework. Paragraph 32 of the NPPF states that:

"All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe."

The comments of West Sussex Highways are set out in full on the website but in summary, they raise an objection to the proposal on the grounds of:

- Given the nature and location of the site, the development does not take up the opportunity to encourage the use of sustainable modes of transport contrary to paragraph 32 of the National Planning Policy Framework;
- It has not been demonstrated that safe and suitable access to the site can be achieved for all people, contrary to paragraph 32 of the NPPF; and
- It has not been demonstrated that the development will not have a severe impact on the operation of the local network, contrary to paragraph 32 of the NPPF.

One of West Sussex Highways main concerns is with regard to the trip generation figures and they state that this must be clarified in order to assess the junction capacity & parking requirements. They also note that there are some issues with the access arrangement and that no Road Safety Audit: Stage 1 and Designer Response has been provided. Finally, they note that the application fails to provide details of likely pedestrian routes and does not encourage the use of sustainable transport.

With regard to disabled access, 8 of the parking spaces would appear to be suitable for those with wheelchairs but this is not clear. No other details are given as to disabled access. It is therefore considered that the proposed change of use fails to accord with the remaining criteria in Policies DEV27 and RET DM1.

IMPACT ON THE CHARACTER OF THE LOCAL AREA

Local Plan Policy GEN7 requires amongst other things that "development demonstrates that it responds positively to the identified characteristics and resources of the site and the area to create attractive places and spaces with the needs of people in mind and respects and enhances local distinctiveness". It is not considered that the proposed change of use will be detrimental to the Oldlands Way frontage as this is an industrial area but it is considered that the introduction of green palisade fencing and hard landscaping to the Shripney Road frontage will be out of character with the existing appearance of the land to the rear of Units 1-7.

The current Shripney Road frontage is characterised by grassed land with ranch style fencing. This gives an open sense to this frontage and minimises the otherwise harsh appearance of the rear of these industrial units. It is acknowledged that the fencing is in need of repair and does not offer any real security to the units. However, it is considered that palisade fencing would not maintain the open nature of this frontage and would industrialise the view from the Shripney Road. For the same reasons, hard landscaping would also be detrimental to the character and appearance of this frontage.

SUMMARY

It is acknowledged that the industrial units on Oldlands Way have been vacant for some time, however, in recent months there has been interest in them from a variety of users. This coupled with the anticipated demand for industrial premises due to the improvements in the economy generally as well as the recent investment in new premises nearby, means that it is important to preserve existing employment floorspace to cater for future demand.

With regard to the impact of a retail use on the vitality and viability of the town centre, it is clear from the impact assessment and its review that certain uses will not be detrimental to the health of the town centre. For this reason, objection is only made to food retail and non-food comparison goods (clothing & footwear). It is not considered that bulky goods and mixed comparison users would be detrimental to the health of the town centre.

However, there are also concerns as to the impact of the proposed change of use on the local highway network, how the new retail store will be accessed by means other than the private car and how the Shripney Road elevation will be treated.

It is therefore recommended that permission be refused for the following reasons.

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), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal 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

REFUSE

- 1 The proposed change of use would conflict with the aims and intentions of the National Planning Policy Framework (paragraphs 18-22) and Policy EMP DM1 of the emerging Local Plan (Publication Version) in that it would result in the loss of valuable B class floorspace on a modern purpose built industrial estate and that this would be detrimental to the supply of employment land within the Arun District.
- 2 The impact of either an unrestricted non-food comparison goods proposal (i.e. clothing

and footwear) or a predominantly food retail use would have a significant impact upon both investment in the town centre and the vitality and viability of the town centre and this would be contrary to the aims and intentions of the National Planning Policy Framework (paragraphs 26 & 27).

- 3 The proposed change of use is considered to be contrary with the aims and intentions of the National Planning Policy Framework (NPPF) specifically paragraph 32 in that it has not been demonstrated that safe and suitable access to the site can be achieved for all people.
- 4 The introduction of hard landscaping and a green palisade fence to the Shripney Road frontage would be detrimental to the character & appearance of the local area. This would introduce an industrial feature into a streetscene which is currently characterised by grassed open space and a ranch style fence and this would be in conflict with policy GEN7 of the Arun District Local Plan.
- 5 **INFORMATIVE:** Statement pursuant to Article 31 of the Town and Country Planning (Development Management Procedure)(England) (Amendment No. 2) Order 2012. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.