REPORT UPDATE

Application No: BR/249/13/

Reason for the Update / Changes

Reason for Update/Changes:

One additional objection received. The objections are as before - highway congestion, pedestrian safety and lack of parking.

One letter of support has been received from Morrison's. This letter confirms that Morrison's will be the end user and that they are proposing to open one of their "M Local" stores which will complement the existing food retail offer in Bognor Regis. Employment figures are to be 20 FTE with 5-8 staff working at any given time. The letter discusses the transport issues and states that the average duration of stay at this size of store is 15 minutes. Also that the transport mode split at existing stores is 57.5% pedestrian, 2.9% cyclist; 2.9% public transport; 18.2% multi-occupancy vehicle; and 18.7% single-occupancy vehicle. Deliveries will be made by a 7.5 tonne truck. Morrison's also confirm that a further application will be submitted for external works including refrigeration plant.

Highway comments have also been received from West Sussex County Council. They have considered the issues of parking, deliveries, sustainability and highway safety and raise no objection subject to conditions. These conditions were then discussed with the applicant and further negotiation took place with WSCC with the result that the conditions that have been added to the recommendation have been agreed by both WSCC and Morrison's.

Morrison's also requested a change to the proposed delivery hours condition. After deliberation and further discussion between parties, it was agreed to amend the condition to the following in order to allow the delivery of fresh items when the store opens and to allow newspapers to be delivered before 7am:

"No deliveries shall be taken at or despatched from the site outside the hours of 07:00 and 22:00 with the exception of a daily delivery of newspapers/magazines only from 06:00 am.

Reason: In the interests of the residential amenities of neighbouring properties in accordance with policies GEN7 and GEN32 of the Arun District Local Plan."

Morrison's had asked to be able to deliver milk and other fresh items prior to 7am but it was considered that this was too early and that such goods could be delivered the night before.

Note: The changes to recommendation, conditions and/or reasons show under Officers Recommendation at the end of the attached report.

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.

BR/249/13/

Recommendation Report for Planning Permission

REF NO: **BR/249/13/**

LOCATION: Nyetimber Mazda
33 Chichester Road
Bognor Regis

PROPOSAL: Change of Use of ground floor from Motor Vehicle Sales & Servicing/Repairs (Sui Generis) to A1 (Shops) Food Retail

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Change of use of existing car showroom to Class A1 food retail premises. This change is only in respect of the car showroom part of the building and whilst this includes the garage area to the rear, it does not include the triangular extension on the north side or the residential flat above. Externally, the proposal includes the whole of the rear parking area and the north eastern part of the Chichester Road frontage. The application does not include any details of signage, parking layout, refrigeration plant or any elevation changes. If required, a further application concerning these aspects would be submitted at a later date once the principle of the change of use has been established. With the addition of plant & waste storage, the existing 18 space car park will be reduced by 3 spaces. The likely employment created will be 20 with 5-8 people on the site at any one time. The applicant has stated that deliveries will be made in the central aisle of the car park during 'quiet' times and that this is normal practice for food shops of this size.
SITE AREA	890 sq metres.
RESIDENTIAL DEVELOPMENT DEN	N/A.
TOPOGRAPHY	Predominantly flat but the land rises slightly from Chichester Road and there is an approx. 0.5m high retaining wall.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	Open to the front and sides. To the rear boundary with 86 Hillsboro Road, there is a part 1m, part 2m high brick wall.
SITE CHARACTERISTICS	Nyetimber Part Exchange Centre (formerly Nyetimber Mazda), an existing car showroom/sales centre with

ancillary car repair/servicing garage behind. There is a residential flat on the floor above the main showroom. The triangular shaped showroom on the north western side is to remain within its current use. To the rear of the site there is hardstanding parking capable of accommodating 18 cars.

CHARACTER OF LOCALITY

Main road. Predominately residential but with a children's nursery on the corner of Town Cross Avenue & Chichester Road to the northwest, an ambulance station and a Chinese takeaway on the other side of Chichester Road.

The site is bordered by Chichester Road on the north eastern side, Hillsboro Road on the south eastern side, 86 Hillsboro Road to the southwest and Waltham House (comprising Acorn Electrical Wholesale Ltd & one empty commercial unit) to the northwest. 86 Hillsboro Road has no flank windows overlooking the site. It is a bungalow and its ground floor flank windows simply look out on the boundary wall (at a distance of 0.9m from windows to wall).

RELEVANT SITE HISTORY

BR/32/04/	Change of use from petrol filling station to motor vehicle sales	ApproveConditionally 26-03-2004
BR/61/07/A	One internally illuminated free standing sign	Apprvd/Cond ADV 11-05-2007
BR/168/08/A	Application for consent to display various illuminated and non-illuminated advertisment signs	ApproveConditionally 11-07-2008
BR/308/49/A	Reconstruction to form new show rooms	ApproveConditionally 28-01-1955
BR/168/79	Internal alts workshop to form carshowrm & workshp new window Demolish carshowrm & demolish S/Sta Erect Self service pumps	ApproveConditionally 04-04-1979

The previous planning history concerning the use of the building has been checked with respect to any previously set hours of operation/opening/delivery conditions but none had previously been imposed. The existing opening hours (as stated on the website) are 9-6 Monday to Friday, 9-5 Saturday and 9-4 on Sunday. However, it is understood that cars for servicing are often dropped off much earlier.

REPRESENTATIONS

Representations received:

Bognor Regis Town Council

Bognor Regis Town Council: "No objection, however Members were disappointed this meant a further loss of skilled jobs in the town, which would be sacrificed to allow for yet another convenience store."

17 letters of objection have been received from local residents and 1 from the owner of Acorn Electrical Wholesale Ltd (18 in total). The comments can be summarised as follows:

· Traffic problems in Hillsboro Road and Town Cross Avenue - customers parking on these roads exacerbating an existing problem caused by on-street parking & children being dropped off at the nursery. Resident's driveways & business forecourts could be obstructed. Where will staff park?;

· Various representations made by the applicant's agent as to Hillsboro Road having ample off-road parking is not true. Parking on the street is also difficult at weekends and evenings, which would be an issue if a shop was operating with the extended opening hours as proposed.;

· Existing car park tapers in size and with existing brick piers, will not be able to provide sufficient space for car parking;

· Parking total of 18 spaces may be reduced by need for cycle parking/waste storage;

· Safety of pedestrians crossing roads/children being dropped off. Also cyclists would be discouraged by the busy nature of Chichester Road;

· There is already more than enough food shops locally and the site is also close to the main supermarkets of Tesco's and Sainsbury's. Other nearby local stores have not survived in the locality;

· Noise disturbance from deliveries plus anti-social behaviour at night and littering from customers;

· Brick boundary wall to 86 Hillsboro Road could be at risk of damage from use of the parking area. There is already some damage despite a low intensity use;

· Deliveries to the site could block access to the car park for customers and customers might then be tempted to park on the double yellow lines/on Chichester Road;

· As the likely tenant is Morrison's, permitting this change of use could prejudice Morrison's plans to redevelop and enlarge their town centre store;

· The university campus is closer to the town centre than this site so the shop will be unlikely to benefit students; and

· Impact on house price of nearby homes.

Comments on Representations received:

The Parish comments are noted. It should be noted that that an element of the existing business will remain on the site.

Regarding the objections of local residents/businesses, current parking standards as set out in the Local Plan require 17.2 spaces for 309m2 of A1 retail space (based on the standards for "Other Shop Units above 100m2"). The existing car park can accommodate 18 cars. It is

accepted that the amount of space in the car park will be less once waste storage/cycle parking/refrigeration plant etc. have been added (indeed the applicant has confirmed that only 15 spaces will be possible) but it is clear that there is on street parking available on surrounding roads at certain times of the day and the site is accessible by bus, by cycle & by foot. The final comments of West Sussex Highways will be reported to the meeting but they have stated that they have no objection in principle to the change of use.

With regard to the criticisms of the applicant's submissions, it should be noted that the applicants agent was previously involved with the application for the children's nursery and previously carried out a parking survey of the local area in December 2012, the results of which are available to view on the Council's website alongside TRICS data and other supporting highway information received during the application determination. Damage to the boundary wall with 86 Hillsboro Road would be a private matter. The impact on house prices is not a material planning consideration.

With regard to noise, Environmental Health has no objections in principle and whilst they have asked for further information, the details requested will be subject to a later application. Delivery hours will be conditioned to be slightly less than the opening hours.

Regarding the impact of this store on the Morrison's in the town centre, it seems clear that Morrison's would not be interested in this site if they considered it would prejudice any other plans that they may have for their Bognor Regis site.

A representation from the applicant is expected and will respond to the concerns of local residents including the issue of existing provision nearby. This will be reported to the Committee as an update to the report.

CONSULTATIONS

Economic Regeneration
Environmental Health
WSCC Strategic Planning

Consultations responses received:

County Highways - WSCC need more information to assess the application and advise the applicant to provide the following details to the district council:

(1) Parking accumulation survey of existing 'M Local stores' within a similar GFA, location and car park;
(2) No of employees proposed; and
(3) A revised transport statement which looks at the site as a whole. This is because WSCC need to assess the transport impact the new proposal will have on what already exists. Including deliveries and vehicle waiting areas for both businesses.

The applicant has provided this information and WSCC they have confirmed that they will issue further comments before the date of the committee meeting. They have also confirmed that they have no objection in principle.

Arun DC Economic Regeneration - have no comment on this application.

Arun DC Environmental Health - Environmental Health would have no objection to the proposed use in principal, however there is insufficient information for detailed comment. The proposed extension of operating hours together with (refrigeration) plant commonly associated with food

retail have the potential to create noise which may adversely impact upon nearby residential neighbours, including the flat above the proposed store should the flat be in separate residential occupation. The applicant should provide details of any proposed plant and an appropriate assessment of the impact of noise produced. If the flat above the shop is likely to be let in separate residential occupation structural details of the floor/ceiling partition and details of measures to attenuate the passage of noise may be appropriate. The Food Safety Team comment that they require further detail on types of foods sold, and if it is intended to have delicatessen counters etc. in shop.

Comments on Consultation responses:

The highway comments are noted and further comments are expected with regard to the information recently submitted by the applicant. WSCC have stated that they have no objection in principle.

Regarding the Environmental Health comments, it should be noted that the current use of the site includes car repair/servicing and so in general, aside from the operation of plant and any disturbance from deliveries, the noise associated with the use of the premises may be less than the existing. It should also be noted that whilst the application seeks A1 food retail, should the likely tenant withdraw from the venture, the premises would be available for any form of A1 retail use.

With regard to details of proposed refrigeration plant, it should be noted that it is not unusual for details of this to come in as a separate application. A comment will be included in the plans condition to confirm that the permission does not cover any external works. It is also not considered appropriate at this time to seek details of the types of foods to be sold.

POLICY CONTEXT

Designation applicable to site:

Within Built Up area boundary; and
Class A Road.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:	GEN2	Built-up Area Boundary
	GEN7	The Form of New Development
	GEN12	Parking in New Development
	GEN32	Noise Pollution
	DEV27	Retail Development Outside the Principal Shopping Areas

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework

POLICY COMMENTARY

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

Paragraph 214 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 published the Draft Arun Local Plan in July 2012 and this is a material consideration in the determination of this planning application. A pre-submission Plan has yet to be endorsed and published. Following publication of a pre-submission draft, there is required to be a formal public consultation, resolution of objections, examination and formal adoption. At this time, the emerging Local Plan is afforded very limited weight in terms of the decision making process.

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 considered to comply with relevant Development Plan policies in that it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, 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 PROPOSAL

The application specifies a change of use of part of the site to A1 food retail. The application if approved would not preclude any alternative class A1 retail uses should the current interested party not wish to take up the lease. No external works are proposed as part of this application and these would all be part of a subsequent submission. This application only seeks approval of the principle of the change of use of part of this site.

PRINCIPLE/POLICY DEV27

The site is located within the built up area boundary and in a main road location. Furthermore, whilst car sales is a sui generis use, it is still a use that involves selling things and as such, the ancillary car repair part of the business aside, the proposed retail use is similar to the existing car sales use.

Policy DEV27 allows for retail uses (including food retail) outside the Principal Shopping Areas subject to a number of criteria as follows:

(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.

It is not considered that food retail premises of this size are capable of being detrimental to the vitality and viability of Bognor Regis town centre. There are existing large food supermarkets within Bognor and a small 300m2 sized store will not be able to provide the same amount of goods as these existing large stores.

As for the other criteria, the site is located on a main road which is a bus route and which is accessible by means other than the private car. It is in the interests of the shop owner to provide for disabled access and indeed a large food retailer like Morrison's will have its own disabled access policies.

The policy goes on to state that only applications for major development are required to be accompanied by an assessment of the potential impact on town and nearby local centres. Also that a sequential test is only required in respect of out of town proposals. This proposal is neither a major application (this being in excess of 1000 m2 floorspace) nor in an out of town location.

NOISE

It is not considered that the food retail use itself will be particularly noisy. Indeed, it is clear from the objections that the concerns are with noise from deliveries and any plant not from the store itself. With respect to noise from plant, this will be subject to a future application at which time it can be controlled by submission of mitigation measures at the application stage or by planning condition. As for deliveries, it should be noted that given the previous use of the site, the site has previously been subject to deliveries such as cars being delivered by transporter and indeed, early morning drop-offs of cars by customers. However, it is considered that 7am is slightly too early and 11pm too late for deliveries and therefore a condition will be imposed restricting deliveries to between 07:30 and 22:00 hours only.

With respect to residential amenity, whilst it is acknowledged that there are properties which overlook the site, these are located on the opposite side of Hillsboro Road and as such they should not be subject to noise or disturbance above and beyond that which they might not otherwise expect in such a location close to Chichester Road. Number 86 Hillsboro Road does share a boundary with the site but has a 2m high brick wall between their house and the car park and this will protect their amenity. The residential flat above the existing showroom may be subject to greater noise and disturbance in say the evenings but the flat is located above and adjacent to existing commercial premises and acoustic insulation could be added to the ground floor ceiling to reduce noise disturbance. It should be noted that the applicant is the owner of this flat and the flat is occupied by a tenant.

HIGHWAYS IMPACTS & PARKING

West Sussex Highways have no objection in principle to the application but will be issuing final comments following the receipt of further information after the report has been finalised. It is difficult to properly assess this issue without these comments. However, on the basis that 15 car

parking spaces will be provided, that there are on-street parking spaces available at certain times of the day, that the site is accessible by means other than the private car and that deliveries will generally be made during quiet times; it is judged that the proposed use will not be detrimental to the safety and convenience of the surrounding highway.

SUMMARY

This is a proposal for the change of use of part of an existing car sales (with ancillary vehicle servicing) centre to a class A1 food retail use. The proposal is considered to be acceptable in terms of retail policy, is in a sustainable location accessible by means other than the private car, is surrounded by a potential customer base and provides car parking for up to 15 cars. Whilst it is accepted that the new use could have greater potential for disturbance to surrounding residents in terms of the hours of use, deliveries and potential plant requirements, this should be balanced against the busy main road location and the fact that the existing car sales operation has no restriction on opening hours and includes a car servicing element located off Hillsboro Road. It is considered that on balance, the proposal is acceptable and should be granted subject to the conditions shown below.

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

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 The development hereby approved shall be carried out in accordance with the following approved plan: "Site Plan for COU Ref 13-943 - PL1001 (Oct 13)". This plan does not indicate details of any external works either to the building or the site and as such this permission does not allow for any external works which should be subject to a further planning application.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with GEN7, GEN32 and DEV27 of the Arun District Local Plan.

3 The premises hereby permitted shall only be open between the hours of 07:00 and 23:00.

Reason: To safeguard the amenities of the neighbouring properties in accordance with Arun District Local Plan policies GEN7 and GEN32.

4 No deliveries shall be taken at or despatched from the site outside the hours of 07:00 and 22:00 with the exception of a daily delivery of newspapers/magazines only from 06:00 am.

Reason: In the interests of the residential amenities of neighbouring properties in accordance with policies GEN7 and GEN32 of the Arun District Local Plan.

5 No part of the development shall be first occupied until the car parking spaces have been constructed in accordance with plans and details submitted to and approved in writing by the Local Planning Authority. These spaces shall thereafter be retained at all times for their designated use.

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

6 No part of the development shall be first occupied until secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved by the Local Planning Authority. These spaces shall thereafter be retained at all times for their designated use.

Reason: To ensure that the site is able to offer alternative travel options to the use of the car in accordance with current sustainable transport policies and GEN7 of the Arun District Local Plan

7 No part of the new retail store shall be first occupied until such time as a Servicing Management Plan has been submitted and approved in writing by the Local Planning Authority. This shall set out the arrangements for the loading and unloading of deliveries, in terms of location and frequency, and set out arrangements for the collection of refuse. Once occupied the use shall be carried out in accordance with the approved Plan, unless written permission has been obtained from the Local Planning Authority for a variation to the approved details.

Reason: To safeguard the operation of the public highway in accordance with Policy GEN7 of the Arun District Local Plan.

8 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 assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

9 INFORMATIVE: The applicant is advised of the requirement to enter into early discussions with and obtain the necessary licenses from the Highway Authority to cover any temporary construction related works that will obstruct or affect the normal operation of the public highway prior to any works commencing. These temporary works may include, the placing of skips or other materials within the highway, the temporary closure of on-street parking bays, the imposition of temporary parking restrictions requiring a Temporary Traffic Regulation Order, the erection of hoarding or scaffolding within the limits of the highway, the provision of cranes over-sailing the highway.