

Report following a request for further information or negotiation

REF NO: FG/16/12/

LOCATION: Country Fayre
Littlehampton Road
Ferring

PROPOSAL: Application for a Minor Material Amendment following a grant of planning permission FG/33/10/ for minor alterations to elevations of building, including lobby, energy centre & plant. Minor alterations to car park layout, landscaping & surface materials (this application also falls within the parish of Angmering)

The Development Control Committee considered the application FG/16/12 on March 28 2012. It was resolved that the application be deferred for the applicant to provide further information. It was agreed that this was to consider further details around these following issues:

- Details of landscaping
- Noise Impact Assessment
- Lighting
- Surface Water Drainage

REPRESENTATIONS

SUMMARY OF REPRESENTATIONS RECEIVED

The further information requested by the District Councils Development Control Committee was received on 11th April 2012 and published on the District Councils website. Individuals and organisations who had previously consulted on the application were notified of the further information and were invited to comment on the further information submitted.

Angmering Parish Council

1. Landscaping- until the planting bordering the A259 dual carriageway has been established, suitable screening should be in place to an appropriate level to provide a light barrier from the headlights of cars manoeuvring in this area.
- 2 .Lighting - Potential light pollution affecting the residential property adjacent to the car park which could have a detrimental effects on these neighbour occupiers.
3. A further potential issue would be the impact of vehicle emissions on this adjoining property.

Ferring Parish Council

The noise report shows that if the development at Jenkins Yard goes ahead there will be an exceedence [sic] of the noise limits therefore acoustic screening should be put in now to alleviate later problems. Although there is an overall increase in landscaping the car parking area is too large an expanse of surface and needs to be broken up by landscaping as per the newly developed Haskins site. The ASDA site is clearly visible from Highdown Hill and the South Downs park. The increase in space for the lobby appears to contravene the condition on FG/33/10 as regards floor space and if this is to be permitted there should be a condition that states it cannot be used for extra retail space.

Kingston Parish Council

Kingston Parish Council shares the concerns raised by Angmering Parish Council and Ferring Parish Council

12 other letters of objection:

- No need for this supermarket in this area.
- High levels of traffic on the A259 has increased since the Angmering bypass was built
- Extra car fumes and emissions
- Have been involved in the application and have understood the process and what has been applied for but the further information is using language and technical information I do not understand. This has left me feeling disenfranchised.
- No meaningful influence on the process
- Proposed mitigation measures are not sufficient as noise levels are exceeded in one of the locations.
- Concern about the surface of the car park. Permeable surface should be used so that rainwater can filter into the soil and keep the ground water table supplied rather than send water down the drains.
- Unnecessary number of supermarkets in the area.
- The opening hours will increase traffic, noise, and night time light pollution, in particular where there is already light pollution from Roundstone nurseries.
- The proposed changes to the A259 will increase congestion on a road which already has its problems.
- Unless the landscaping is sympathetic to the surrounding countryside the whole place will be even more of an eyesore.
- Impossible for the layperson to make an informed decision about the materials presented by ASDA since they are written in a technical language which does not tell me in plain English what the noise impact will actually be.

2 letters of support:

- No objection to the amendment to the application and continue to support the ASDA development.

Officer Response to REPS

Most of the representation letters dealt with issues which were not related to the 4 issues of further information requested.

Comments that the submissions received are written in a technical language are understandable. These reports are technical submissions prepared for technical assessment and should be viewed as such.

CONSULTATIONS:

The Development Control Committee requested further information on 4 specific issues. The relevant Arun District Council departments were consulted on these issues.

Furthermore, Officers considered that it would be beneficial to take the opportunity to consult the South Downs National Park on the application.

LANDSCAPING

The applicants submitted a detailed landscaping scheme as requested. The submitted plan provided further information on the species of plants proposed, the height of species when planted and density of planting. Proposed trees measure 450cm tall.

The planting on the western boundary of the site has been increased and they are proposing to plant some wider spreading trees at the southern end of the site adjacent to the building where the verge is wider. They have also proposed a substantial landscaped border on the eastern side of the service road which is in addition to the original approved schemes.

The detailed landscape scheme has been evaluated by the District Councils Trees and Landscape Manager who made a number of detailed comments regarding the species and mix of planting. The Trees and Landscape Manager has concluded that the proposed landscape scheme would be acceptable and has not raised an objection.

NOISE IMPACT ASSESSMENT

The applicants submitted a detailed Noise Impact Assessment. This was considered by Arun District Councils Senior Environmental Health Officer.

The Noise Impact Assessment confirms that noise from proposed plant will be below the lowest measured existing background "target levels" derived from BS 4142 at the nearest existing residential receptors, subject to the provision of noise attenuation measures proposed within the report.

The Councils Environmental Health Officer commented that The target levels at the proposed Jenkins Yard Development would be only marginally exceeded and it is understood that further practicable mitigation measures are not available for proposed plant and plant location. It should however be noted that anticipated, worst case, plant noise levels at the Jenkins Yard Development appear significantly below (-15dB) the recommended noise exposure categories for new dwellings near existing "mixed" noise sources contained in PPG 24. I would consider this a more appropriate standard than BS 4142 for noise affecting a proposed development.

Further to this, the applicants reviewed of the proposed refrigeration and air conditioning plant and have proposed to make additional upgrades and screening to ensure that the plant noise does not exceed the target noise levels at the Jenkins Yard boundary. They have submitted a revised acoustic report which has been assessed by the Councils Environmental Health Officer as being appropriate.

The District Councils Environmental Health officer has concluded that the proposed plant and revised noise mitigation measures would not pose harm to existing or possible future development, and has not objected to the proposal.

LIGHTING

The applicants architects submitted an External Lighting Illuminance Plot which details the proposed lighting and accompanying statement which confirms compliance with Institute of Lighting Professional (Engineering) standards for Environmental Zone E2 (Low district brightness areas - Rural, small village, or relatively dark urban locations).

The District Councils Environmental Health Officer has concluded that the proposed lighting scheme would be suitable, and has not objected to the proposal.

DRAINAGE- FOUL AND SURFACE

The applicants have submitted a detailed design for the drainage proposals on the site including details of how foul sewage will be connected to the foul sewage network, and details of how surface water drainage will be managed.

The detailed scheme has been assessed by the District Councils Drainage Engineers who have not raised an objection to the scheme.

SOUTH DOWNS NATIONAL PARK

Following comments at the Development Control meeting on March 28th Arun District Council formally consulted the South Downs National Park on the application. Specific attention was drawn to the effect of the lighting proposals on the park, and the effect of the car park when viewed from Highdown Hill to the immediate north of the site.

Following a site visit from National Park planning officers and consultation with relevant appointed members of the National Park Authority the Authority have not raised any objection to the proposals.

OFFICER COMMENTS ON CONSULTATION RESPONSE

The applicants have submitted sufficient technical evidence to assure the District Councils various technical officers that there would be no unacceptable impact arising from the proposed amendments as part of this application.

CONCLUSIONS

The Development Control Committee considered the application FG/16/12 on March 28 2012. It was proposed and duly seconded that the application be deferred for the applicant to provide further information. It was agreed that this should be around:

- Details of landscaping
- Noise Impact Assessment
- Lighting
- Surface Water Drainage

Furthermore, Officers considered that it would be beneficial to take the opportunity to consult the South Downs National Park on the application.

The applicants have submitted detailed technical information which has been assessed by the District Councils Parks and Landscapes Department, Environmental Health Department and Engineering Department for compliance with relevant codes and best practice.

The various consultees requested some further information, and suggested improvements to the applicants which have been accepted.

All relevant consultees have evaluated the information submitted and concluded that the development would not have an unacceptable impact.

Furthermore, the South Downs National Park was consulted. The National Park has not raised any objections to the proposals.

It is therefore considered, that in the absence of any objections on technical grounds, that the proposal will not be contrary to the proper planning and sustainable development of the area and should be approved subject to the conditions set out below.

REPORT UPDATE

Application No: FG/16/12/

Reason for the Update / Changes

THIS REPORT UPDATE APPLIED TO THE March 28 2012 COMMITTEE

Reason for Update: 85 additional Objection letters; Further information on Air Conditioning and Refrigeration

ANGMERING PARISH COUNCIL- Objection.

The Parish Council have concerns that this application should not be a minor material amendment to the planning application FG/233/10 and that insufficient information has been supplied to support an adequate consideration of these amendments and take a constructive view when making a decision.

In the absence of more in depth information, the basis of our objections are:

Design & External Appearance: placing of external air conditioning unit. No information on impact on surrounding area. No details of the new Energy Centre and incorporated Pump House, including impact on local water supplies, use of a sustainable drainage system and whether energy source is sustainable.

Highways Safety: Conflict of using revised exit/entrance points for both Service and customer traffic. No report on impact of vehicle movement within the car park area and how headlights could distract traffic travelling along the A.259

Parking provision: New layout and surface. No clear information on whether the proposed new surface will be permeable or is serviced by a sustainable drainage system in view of local flooding concerns.

Effect on Neighbouring Occupiers: Noise pollution, increase of local traffic, surface water dispersal from roof and other areas. No Impact Assessment included with application to assess these outcomes.

FERRING PARISH COUNCIL- objection

Energy Centre and Rooftop Plant - whilst the proposal to relocate rooftop plant to ground level is welcomed, there is no information about the potential noise levels of the refrigeration and air conditioning units which will presumably run 24/7. Until such time as technical data shows that this will not interfere with the quiet enjoyment of the properties close to the site, the Parish Council objects to this.

Lobby Area - this appears to be a potential increase in floor space as set down in Condition 3 of the Decision Notice and therefore the Parish Council objects.

Enhanced Landscaping - we welcome the enhanced landscaping but object to the use of beech trees as it is felt these would be unsuitable for this site due to their slow growth and shallow root system.

KINGSTON PARISH COUNCIL- objection

Kingston Parish Council fully supports the objection made by Ferring Parish Council.

EAST PRESTON AND KINGSTON PRESERVATION SOCIETY

I am surprised that this application has been made as a minor amendment to the earlier permission granted to Country Fayre. It appears to represent an application for the construction of the standard design of Asda superstore. I would have expected it to be made as an application for full planning permission. I would also have expected it to provide more information, on such basic issues as the method of disposing of rainwater and the lighting for the car park.

I therefore consider that this application be refused, and that the applicant should be requested to submit an application for full planning permission.

81 ADDITIONAL LETTERS OF OBJECTION

Asda have eased themselves onto the land everyone believed was earmarked only for the enlarged Country Fayre development.

Plans for Asda supermarket is for a much larger retail floor area than approved by Country Fayre.

We object to the Asda proposal as set out in the leaflet.

Work has already started.

Design is out of harmony with the countryside.

Impact on other smaller businesses in Ferring, Rustington and Angmering has been ignored.

Would have objected to the Country Fayre application but I was led to believe it was going to be a Garden Centre.

Direct competition for local businesses and supermarkets in area.

Building works are already underway and causing a disturbance.

Landscape consultation response suggested that the overflow car park should be halved in size and the planting scheme should be revamped.

Retail Impact Assessment should be reviewed.

Arun DC should take this opportunity to revisit the mistakes that have been made.

Suggest a new roundabout be installed to the front of Asda on the A259

Can Southern Water confirm that there will be no water restrictions in Ferring this year.

Land is used by nature and relies on natural water to survive. What plan to look after decreasing agricultural land and flow rain water from the roof of ASDA and the car park to adjoining fields without pollution.

A259 cannot cope with the levels of traffic as a result of the roadworks at Arundel. This will lead to fatalities.

Worried about the increase of traffic and noise to the area. Traffic on the A259 is getting heavier by the week, the ASDA store will increase this further.

ASDA's large delivery lorries in extended hours will destroy the peace and quiet.

Large air conditioning units will effect the air quality and infiltrate the area with noise pollution.

ASDA has this site by the "back door" means the agreed approval was given to Country Fayre not ASDA. ASDA stores are a different beast to Country Fayre

No need for another giant supermarket in the area.

ASDA will bring traffic pollution, noise pollution from signs which will effect the wildlife

Ferring is at high risk of flooding and with the size of the tarmaced area it will lead to an

increased risk.

Building will be an ugly blot on beautiful landscape.

Object on grounds that there has been a huge response from local residents objecting to the development

The amendments should be refused because they are only part of a series of amendments which together amount to a retail operation very different to the one agreed.

One of the conditions attached to the current and a fresh planning application is that opening hours should be set the same as Sainsburys opening hours.

Why can a condition not be included, that the development be planted with trees and shrubs to hide what it likely to be a monstrosity?

Application should be refused as they are part of a series of proposed changes that if agreed would result in a development very different from the one for which the original planning permission was granted.

The previous garden centre had restricted hours that have now been extended to 6am to midnight for customers and perhaps even longer for deliveries.

Planning report does not tell the whole story of the other minor amendments applied for and granted without any publicity.

The change from what was essentially a rebuilt local garden centre, opening at reasonable hours, to a superstore operated by a very large scale national retailer, open for at least 18 hours a day is a significant change in material considerations.

No thought is given to the filter lanes which would be necessary for traffic entering and exiting the proposed new store.

Right turn lane into the overflow goes straight across the public in road only a short distance from the turn off from the A259.

Lorry cross over will be dangerous as the lorries will be slow moving and car will be having to stop to let them pass.

No flood risk assessment has been done for this site on any of the applications submitted by Country Fayre or Asda.

Site is on an alluvial flood plain, is not free draining, and therefore the water should not be allowed to flow into the Rife.

Development does not deal satisfactorily with rainwater. No assessment of rainwater on the Rife.

New entrance lobby will increase the overall floor space of the site.

The section of road is already experiencing a substantial increase in traffic from the revamped Haskins site. Severe congestion will result.

This is not a ¿minor amendment¿ to what has been consented but instead a significant change that enables a totally different category, mode of operation and scale of retail use- namely the switch from a low volume, 9 am to 5 pm garden centre to a high volume extended opening hours superstore.

Given the serious problem of drought in this part of the country, it is very surprising that Asda are planning to dump their roof run-off water into the Rife, increasing the problems of flooding. In such an area prevalent to flooding more information and surveys should have been provided to provide surrounding areas are not being put at risk.

ASDA should present a totally new planning application revealing all of their plans for the site in one document.

Please arrange a complete independent review taking into account all aspects of the road including Haskins, the new proposed larger Sainsburys etc. All works should be halted until there is a satisfactory resolution.

OFFICERS COMMENTS

REPRESENTATIONS THAT THE APPLICATION SHOULD NOT BE CONSIDERED AS A MINOR MATERIAL AMENDMENT

Planning application FG/33/10 is very clear that the application is for an unrestricted A1 retail unit comprising:

A total floor area of 11,520sq.m;

A retail sales area of 6336 sq.m (2800 sq.m A1 food retail;and 3536 sq.m A1 non-food retail).

The District Council's website (<http://www.arun.gov.uk/main.cfm?type=RETAILAPPLICATIONS>) states clearly "the identity of the applicant (retailer) is not an issue which should influence whether the Council should grant planning permission." The fact that the end retailer in this instance will be ASDA cannot be a consideration.

Government Guidance, "Greater flexibility for planning permissions- Guidance" states that "A minor material amendment is one whose scale and nature results in a development which is not substantially different from the one which has been approved."

It can be seen that in the case of this application the scale of the development has not changed significantly. Total floor area has increased by 65sq.m due to the new entrance lobby. However the floorspace allowed for retail sales, the retail split, and range of good that can be sold have not changed and remain restricted by Condition 2. The number of parking spaces available has increased by 4. As such the scale of the development has not changed in a significant way.

The nature of the development is for an unrestricted retail use. None of the proposed changes, individually or cumulatively, will in any way alter the retail use. Nor will any of the proposed changes cause the store to operate differently.

Based on the above, the consideration of the application as a Minor Material Amendment is wholly appropriate.

REPRESENTATIONS THAT THE OPENING HOURS SHOULD BE RESTRICTED FURTHER THAN THAT PROPOSED IN CONDITION AND THAT THE INCLUSION OF OPENING HOURS ITSELF CONSTITUTES A SIGNIFICANT AMENDMENT.

The previous trader on the site Country Fayre did not have any planning condition or legal agreement that restricted the opening hours or delivery hours that the store could operate.

Approved planning application FG/33/10 did not restrict the opening hours of the store. As such there is no restriction on the trading hours.

A number of responses have stated that opening hours should be restricted to the same as

report

those at Sainsburys in Rustington. It is important to note that there is no planning or legal restriction on this store's opening hours or delivery times other than the provisions of the Sunday Trading Act 1994

In this instance it was felt that given the significant level of public concern that there was an opportunity to derive some wider benefit for the local community. As such the District Council negotiated with the developers to agree normal trading hours for a store of this kind. This is a key benefit to approving the scheme.

FURTHER INFORMATION ON REFRIGERATION AND AIR CONDITIONING

Refrigeration Units: Frostpack Compact- 8 the proposed refrigeration plant is designed on dry air cooled condensers and does not include a water cooling tower or evaporative condensers.

Air Conditioning Units: Lennox Flexy 85- there are no cooling towers, or condensers that use evaporative cooling.

Arun District Council Environmental Health Officer Comments:

Factors including the numbers of A/C and refrigeration units, their position, orientation, distance to noise sensitive receptors and other site characteristics will require consideration. A definitive assessment will require significant time and effort, possibly computer modelling, beyond the scope of this consultation.

A noise consultants report should be obtained [by condition] to ascertain the impact of noise produced by the plant on existing background noise levels at existing and potential future noise sensitive development.

As the proposed plant is air cooled and does not include a water cooling tower or evaporative condensers Legionnaires disease is not an issue.

Proposed Condition

Noise Assessment

The building shall not be occupied until a detailed Noise Assessment has been carried out in accordance with BS 4142: Method for Rating Industrial Noise Affecting Mixed Residential and Industrial Areas, and submitted to in writing and approved by the Local Planning Authority. The Noise Assessment should include proposals to mitigate all identified significant adverse impacts (as defined by "Explanatory Note to the Noise Policy Statement for England"; Department for the Environment, Food and Rural Affairs). The proposed development shall not be occupied until the mitigation measures identified as necessary are implemented.

REASON: To Safeguard the amenity of residents in accordance with paragraph 123 of the National Planning Policy Framework.

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.

FG/16/12/

Recommendation Report for Planning Permission

REF NO: FG/16/12/

LOCATION: Country Fayre
Littlehampton Road
Ferring

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IMPORTANT

Further Update to Planning Application Report FG/16/12/MMA

Country Fayre, Littlehampton Road, Ferring

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Noise Impact Assessment
Lighting
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Representations

Summary of Representations Received

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Officer Response to REPS

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Consultations:

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Furthermore, Officers considered that it would be beneficial to take the opportunity to consult the South Downs National Park on the application.

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landscape scheme would be acceptable and has not raised an objection.

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Drainage- Foul and Surface

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The detailed scheme has been assessed by the District Councils Drainage Engineers who have not raised an objection to the scheme.

South Downs National Park

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Officer Comments on Consultation Responses

The applicants have submitted sufficient technical evidence to assure the District Council's various technical officers that there would be no unacceptable impact arising from the proposed amendments as part of this application.

CONCLUSIONS

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The various consultees requested some further information, and suggested improvements to the applicants which have been accepted unreservedly.

All relevant consultees have evaluated the information submitted and concluded that the development would not have an unacceptable impact.

Furthermore, the South Downs National Park was consulted. The National Park has not raised any objections to the proposals.

It is therefore considered, that in the absence of any objections on technical grounds, that the proposal will not be contrary to the proper planning and sustainable development of the area and should be approved subject to the conditions set out below.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

This application seeks approval for Minor Material Amendments to the approved and implemented supermarket of Country Fayre. These amendments are as follows:-

EAST side of building.
Provision of refrigeration plant with 3m high galvanised palisade fence around;
Colleagues cycle parking;
Smoking shelter;
Grasscrete turning head;
Fire exits;
Removal of windows.

SOUTH side of building.
Repositioning entrances/fire exits;

WEST side of building.
Plant area;
Covered Home shopping vehicle parking, reverse logistics;
Loading Bay with 1:20 ramp;
External staircase to roof;
Grasscrete turning area.
Fire exits.

NORTH side of building (front).
Relocation/enlargement of entrance lobby;
Removal of 4no. roof dormers;
Change from patio style windows to 2no. sections of shop-front glazing.

FRONT area to building.
Removal of landscaping within the ordered car parking area - overall car parking 591 spaces including overflow parking - (previous car parking spaces including overflow car parking 587);
Inclusion of recycling centre;
Trolley bays;
Deletion of 1 section of overflow parking and replace with landscaping.

SITE AREA	4.5 hectares
RESIDENTIAL DEVELOPMENT DEN	N/A
TOPOGRAPHY	Predominantly flat
TREES	Site is under construction, from frontage none are visible.
BOUNDARY TREATMENT	Low walling to front approximately 1 metre high and approximately 2.5 metre walling to south side of car parking area. Chain link to railway line to south of site and post and wire to field to the west.
SITE CHARACTERISTICS	Former buildings comprising the original retail store now demolished. At time of site visit, electricity substation/transformer in process of being relocated within the site. General works in progress. FG/33/10 implemented.
CHARACTER OF LOCALITY	Housing lies to the east side of neighbouring nursery uses; railway line lies to the south; agricultural fields lie to the west; main A259 Littlehampton Road lies to the north.

RELEVANT SITE HISTORY

FG/174/08/ and FG/33/10/ approved the replacement retail building to the rear of the site, abutting the railway line. The removal of the s106 Legal Agreement which limited types of products and quantities sold was approved under FG/33/10. This application imposed a condition limiting the amount of retail floorspace permitted to a total maximum of 6,336 square metres, with 2,800 of that figure being for convenience food sales.

REPRESENTATIONS

Representations received:

Ferring Parish Council

Angmering Parish Council

14 Letters of Objection:

Change of vehicle access. If approved would vastly increase levels of traffic from the Littlehampton direction - would result in a tailback which could block the Roundstone roundabout. Could result in highway hazard with those less familiar with the road layout. The trip rate calculations for traffic were based on Country Fayre activity not a major supermarket. Local survey should be done.

Air conditioning - What is proposed. Have they been approved elsewhere and found to be acceptable to local residents. What is the noise level. Will the units be running 24 hours a day. Asda is backing onto a residential area and residents are entitled to quiet enjoyment. What safeguards will be put in place to avoid Legionnaires Disease developing.

New Enclosed Entrance Lobby. Would be an increase in permitted floor space as set down in condition 3 of FG/33/10.

Opening Hours. Should not be 24 hour opening should be restricted . Restrict deliveries to 0800 to 2100 so local residents have some quiet time.

Water from roof. Why is Asda not using the water from the roof for some purpose not just dump it into the rife where it will increase the risk of flooding. Not environmentally friendly..

Asda should be forced to store the water.

Car Park. Why has tarmac now be introduced . Why is grasscrete only being used in the service yard. Why can't the car park hard standing be treated in a similar way as originally proposed.

Landscaping. Suggest use of different trees/landscaping than indicated.

Bus stop L'hampton Road. Is the bus stop just past Langbury Lane traffic lights being moved. Such a change would be fine for people who want to go to Asda, but would be a major problem for residents at the top of Langbury Lane who would need to walk a significant extra distance.

Is there any need for this supermarket as both Sainsburys and Tesco's are within a short distance and there is a local Co-op in the village.

Traffic lights would hold up traffic on A259.

Lighting in carpark should be aimed downward to avoid light pollution.

Solar PV panels should be put on such a large roof.

Opening hours should be controlled.

Water run off from the roof should be recycled.

Planting should take account of the sea.

Car parking area should be porous and not run down the drains.

Waste from the site should not run into the Rife.

Enormous increase in traffic flows.

Changes should have been considered under FG/33/10.

The matter has been mis-managed.

Flawed Planning system.

County, District and Parish Council did not consult the community.

The GOSE should have called the application in and question the safety of the decision.

Piecemeal development.

Flooding to the Rife and surrounding area.

Application does not tell the whole story of how (and why) Asda are seeking to turn the permission given to Country Fayre into permission for their kind of superstore.

Worthing Ferring Garden Centre: Objection.

Client has considerable concerns over both the impact of the works and the fact that they had no prior knowledge of the highway proposal. The highway works may impact upon our client's land. Are the highway works to be paid for out of a s106 contribution relating to the County Fayre development or public funds.

Ferring Conservation Group: Objection.

This is not a Minor Amendment to the consent but a very different conception of a retail use.

Full details of the project, including previous minor and non-material amendments applied for, the sewerage, drainage and highway access proposals and other changes not yet applied for, including hours of operation, signage and illumination, should be set out in a fully comprehensive application for what Asda wishes to do on this site.

Asda may claim to have consulted residents of Ferring on this application but this consultation took place after the application was made and met with almost universal hostility at the display and drop in sessions at Ferring Village Hall.

Ward Member: Is the proposed outside air handling plant for the air conditioning going on the roof or on a wall thus changing the skyline. Also has the potential increase of the noise been surveyed for the hours of darkness in relation to local residence.

1 Letter of Support: Having attended the Asda consultation in Ferring Village Hall, we would like to say that we are impressed with the information received there and support the development in general, as we feel it will provide a welcome service and economically benefit this rather deprived area.

We would have an issue with 24 hour opening and light pollution from the car park, the remaining Minor Amendments are of no consequence to us. We are of the opinion that the amendments would soften the visual impact of the store on the environment.

The next protest from the Group will concern the plans for a traffic controlled entrance and again we do not have any issues with this proposal.

Comments on Representations received:

This application is not considering the vehicular access to the site, the access has previously been approved under FG/84/11/NMA. The traffic levels for the retail use were also considered under FG/33/10 - the key issue being retail, planning permission is not for the specific user of the unit, but rather the retail use, i.e. ANY retail use, provided it was in accord with the condition relating to the amount of floorspace for the retail use.

A retail assessment was also undertaken for FG/33/10.

The air conditioning/refrigeration plant proposed is what is normal practise on most retail operations, Environmental Health have considered the units with regard to noise particularly onto the nearby residential properties. Indeed, if there were to be any noise issues, Environmental Health would be the appropriate body for response. Legionnaires Disease is not a material planning consideration since it is covered by other legislation, however, Environmental Health state that as the proposed plant is air cooled and does not include a water cooling tower or evaporative condensers, Legionnaires disease is not an issue.

The entrance lobby does not contribute to retail sales area and therefore does not default condition 3 on FG/33/10.

Although not part of this application, Asda have agreed to restrict the opening hours of the store from 0600 - 0000.

The drainage matters have previously been agreed, and there was no consultee requirement that the water run off from the roof be syphoned off separately.

The original material proposed for the car park was concrete with some gravel sections. The use of tarmac is an appropriate alternative. Grasscrete is not considered a suitable surface where trolleys are involved.

The trees/landscaping shown on the plans largely reflect the approved trees/landscaping on the approved plans FG/33/10 however a condition will be attached to any permission requiring further details.

Bus stops outside of the application site, are not germane to this application, nor indeed are traffic lights outside of the site.

The supermarket was approved under FG/33/10. The application is not to re-consider the supermarket use, only largely design changes.

The proposed Klargestar, is not part of this application.

It is difficult to understand how changes could have been considered under FG/33/10.

GOSE were consulted on the application for a supermarket, FG/33/10 and did not call in the proposal.

Drainage of the site has already been approved under FG/96/11/DOC & FG/98/11/DOC

The site is not within a Flood Zone.

It is not considered that the planning process has mis-managed etc. the site, the decisions have been undertaken in accordance with legislative requirements. Indeed, the supermarket use FG/33/10 was presented to the Development Control Committee and the vote to allow the use was carried. Members of the public had the right to make representation, and to speak at the Development Control Committee, the application thereby was undertaken via a democratic and transparent system.

The comments regarding Asda are not a material planning consideration of this application.

CONSULTATIONS

Environmental Health
Parks and Landscapes
Environmental Health
Engineering Services Manager

Consultations responses received:

District Parks & Greenspaces:

Suggest alternative tree species on the boundaries than that proposed as they will overhang the boundaries when mature and should be better spaced when planting. Planting of Larch is not recommended due to recent association with the fungal disease Phytophthora, suggest English Oak as a possible replacement to the Larch. Could perhaps alter the overflow car parking and then balance the landscaping either side.

District Environmental Health:

No information is provided in respect of noise produced by the plant, existing background noise levels, or predicted noise levels at nearest sensitive premises, so definitive comment is not possible. It is noted that the scheme does not propose any screening to either plant compound.

I did consider the potential impact of noise from plant in view of the separation distance to the nearest sensitive residence ('Huntley' at approx. 100m) I did not consider that noise from modern, well maintained plant at this distance was likely to be significant. Noise arising on this site may have a greater impact on future sensitive development in closer proximity and may be a consideration in any application for such development.

Comments on Consultation responses:

Parks & Greenspaces Noted: The tree species to the west boundary are as approved via FG/33/10. The application seeks addition landscaping within the site.

Environmental Health Noted:

POLICY CONTEXT

Designation applicable to site:
Outside Built-up Area Boundary
Within the East Preston & Ferring Strategic Gap
A259

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:	GEN3	Protection of the Countryside
	GEN7	The Form of New Development
	GEN12	Parking in New Development
	AREA10	Strategic Gaps
	GEN32	Noise Pollution
	GEN33	Light Pollution

PLANNING POLICY GUIDANCE

PPS1	Delivering Sustainable Development
PPS4	Planning for Sustainable Economic Growth
PPS7	Sustainable development in rural areas
PPG13	Transport

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 or the residential amenities of nearby 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

MINOR MATERIAL AMENDMENTS LEGISLATION BACKGROUND.

The Killian Pretty Review recommended that 'Government should take steps to allow a more proportionate approach to minor material changes in development proposals after permission has been granted.'

The recommendation therefore has been to allow that the existing route under s.73 of the Town and Country Planning Act 1990 (which allows changes to the conditions applying to existing permissions) should be streamlined and clarified.

A general definition of a minor material amendment is, "A minor material amendment is one whose scale and nature results in a development which is not substantially different from the one which has been approved."

The development which the application under s.73 seeks to amend will by definition have been judged to be acceptable in principle at an earlier date. These applications should be determined in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004, but local planning authorities should, in making their decisions, focus their attention on national or local policies or other material considerations which may have changed significantly since the original grant of permission, as well as the changes sought.

CURRENT APPLICATION.

A list of all the changes have been highlighted at the very beginning of this report, and will not be extensively covered further here as they are too minor.

RETAIL FLOORSPACE.

It can be clearly seen from this list that the supermarket itself; floor space; or the extent of retail, is not changing, it is purely externalities. The entrance porch is not considered to extend the floor area of the retail use, the condition of the retail approval FG/33/10 stated:-

'The floorspace hereby permitted shall be limited to a maximum of 6,336 square metres for total retail sales area, (this figure shall include normal operating space such as walkways or aisles in

the food facility), and of that figure a maximum of 2,800 square metres shall be for convenience food sales as defined within PPS4 - Planning for Sustainable Economic Growth.'

Clearly the porch cannot be considered as retail sales area.

The refrigeration area to the east of the building and the air conditioning plant to the roof also do not affect the retail sales area. The same situation relates to the shelters and cover bays around the building.

AIR CONDITIONING/REFRIGERATION PLANT.

Concerns from objectors have been raised regarding the air conditioning and refrigeration plant and as can be seen from the consultation with the Councils Environmental Health there are no objections raised particularly as the distance between them and the residential properties is quite considerable, the nearest being 'Huntley' to the north east of the supermarket, which will be more than 100m distant.

DESIGN/MATERIALS.

The original design of the supermarket had 8 no. dormers onto its front elevation Asda propose to bring that number down to 4, which is considered acceptable. This coupled with the glazing gives and change of material to the front from brick to horizontal cladding create a pleasing design focus. A further change is the moving/enlargement of the entrance canopy, which will provide a better focal entrance area to the supermarket.

CAR PARKING.

The car parking area will lose the landscaping that was shown to be contained within it on the Country Fayre retail permission FG/33/10 and instead improve other areas within the site. Indeed the western overflow car parking area will be removed and replaced by landscaping. The centre and eastern overflow car parking area will become more formalized from that shown of the original and amendment FG/84/11/NMA and have also increased landscaping within them. The car parking area rearrangement will result in a total of 587 spaces only an increase of 3 spaces from FG/33/10.

LANDSCAPING.

The landscaping proposed largely identifies the same species and positions of trees etc. as approved on the previous application FG/33/10 and the landscaping area on the whole site is increased over that formerly approved. A condition on any permission will have a landscaping condition for details of the landscaping to be submitted.

CONDITIONS

As stated earlier, conditions can be attached to an MMA approval. But they have to be reasonable, necessary etc. to the permission being granted. Applicants will have the right of appeal against conditions applied.

A new condition relating to lighting within the car parking area would be reasonable to apply to any permission, particularly as the application relating to changes to the approved layout.

Asda have confirmed hours of use for their store and a condition on any approval will require that the use shall only operate between the hours of 0600 - 0000 on any day

A condition requiring the landscaping to be put in place and indeed other conditions (other than time limit) from FG/33/10 if not discharged, to be largely repeated here if approved.

SUMMARY

The application relating to the Minor Material Amendment is considered to be acceptable and will not result in demonstrable harm or compromise the existing implemented retail use.

Many objectors have raised issues that do not necessarily relate to this application and have brought in many externalities quite out of the remit for consideration either under this application or indeed under planning legislation. For example many discussed the licence application for the Klargester package treatment plant which is being considered by Environment Agency (and is now understood to have been withdrawn). Another example is the proposed traffic lights within the A259, which do not require planning permission as they are within the highway and the s278 associated with any works within the highway, are a matter for consideration by the West Sussex County Council Highways Authority. Another matter raised was that rainwater should be stored and used environmentally. Again, the drainage of the site has been formerly approved and this was not a requirement of the planning permission for the supermarket FG/33/10. There is no planning reason to reject the proposal in the absence of such a water recycling scheme.

The changes/amendments shown are considered to have a neutral effect on the approved supermarket permission and further, are not considered to result in demonstrable harm to interests of acknowledged importance, namely the residential amenities of nearby properties or the character of the area in general.

It is therefore recommended that the application be approved subject to the following conditions.

RECOMMENDATION

APPROVE CONDITIONALLY

- 1 This permission relates to the following approved plans:-

Location Plan 10.120(00)01_01 Revision 0
Proposed Site Plan 10.120.A(00)01_02 Revision A
Proposed Ground Floor Plan 10.120.A(00)01_03 Revision 0
Proposed Roof Plan 10.120.A(00)01_04 Revision 0
Proposed North and East Elevations 10.120.A(00)01_05 Revision 0
Proposed South and West Elevation 10.120.A(00)01_06 Revision 0
Proposed Section 10.120.A(00)01_07 Revision 0
Landscape Proposals (Planning) 410-02
External Lighting Illuminance Plot 2451/E/100 Revision A
Drainage Proposals 11-046-C.01
Foul Gravity Drain Outfall Section 104 Plan 11-046-C.104 Revision P1

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

- 2 The floorspace hereby permitted shall be limited to a maximum of 6,336 square metres for total retail sales area, (this figure shall include normal operating space such as walkways or aisles in the food facility), and of that figure a maximum of 2,800 square metres shall be for convenience food sales as defined within PPS4 - Planning for Sustainable Economic Growth.

Reason: To prevent an escalation of retail sales within the site in accordance with the NPPF and Local Plan Policies GEN26 and GEN 27

- 3 There shall be no sub-division of the premises, which shall be built in one stage and operated as one unit.

Reason: To prevent the foodhall being constructed and operated separately in accordance with the NPPF and Local Plan Policies GEN26 and GEN 27

- 4 Development shall not commence until full details of the proposed surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The design should follow the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, the recommendations of PPS 25 and the SUDS Manual produced by CIRIA. Winter groundwater monitoring to establish highest annual ground water levels and Percolation testing to BRE 365, or similar approved, will be required to support the design of any Infiltration drainage. No building shall be occupied until the complete surface water drainage system serving the property has been implemented in accordance with the agreed details.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with Policies GEN7 and GEN9 of the Arun District Local Plan.

- 5 Within 3 months of the building hereby permitted being brought into use, the cycle parking and car and lorry parking spaces and turning facilities shown on the submitted plans shall be provided and constructed. The areas of land so provided shall not thereafter be used for any purpose other than the parking of cycles and the parking and turning of vehicles.

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

- 6 The servery/coffee area within the building hereby permitted shall not be brought into use until a means of ventilation for the extraction and disposal of cooking odours has been provided in accordance with details to be submitted to and approved by the Local Planning Authority. The facility shall thereafter be provided and retained for such use.

Reason: In the interests of the amenities of the locality in accordance with policy GEN7, GEN34 of the Arun District Local Plan.

- 7 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons 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 5 years from the completion of the 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.

- 8 The overflow car park areas to the front of the site, shall not come into operation for use unless and until 90% of the new main car park is occupied.

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

- 9 The retail unit hereby approved shall not be used for the sale of bulky white electrical and gas goods or for the sale of pets.

Reason: For the avoidance of doubt and in the interests of the amenities of the locality in accordance with the NPPF and GEN 7 or the Arun District Local Plan.

- 10 The building hereby approved shall not be occupied until such time as a Travel Plan, prepared in accordance with the most recent national guidance, has been submitted to and approved in writing by the Local Planning Authority.

Reason: To encourage sustainable travel to the site and lessen dependency on the use of the private car in accordance with the NPPF

- 13 The illuminance of all external lighting shall be dimmed to 50% of full illuminance (full illuminance as set out in Approved Plan: External Illuminance Plot 2451/E/100) in the following time period:

1 hour after store closure to 1 hour before store opening

Reason: To control the visual amenity of the local environment in accordance with Arun District Local Plan policies GEN7, GEN33.

- 14 On any day, the retail use shall be operated between the hours of 0600 and 0000 only and not at any other time.

Reason: In the interests of amenity in accordance with Arun District Local Plan policies GEN7 and GEN32.

- 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 or residential amenity on the surrounding area and its character and there are no material considerations to indicate otherwise.

RELEVANT POLICIES

LOCAL PLAN: GEN7

NATIONAL POLICIES: National Planning Policy Framework

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

- 17 INFORMATIVE: Permission may be required from West Sussex County Council for the culverting, diversion, infilling or obstruction of any watercourse on the site.