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**Via Email:** [neil.crowther@arun.gov.uk](mailto:neil.crowther@arun.gov.uk)

Dear Neil,

**APPLICATION FOR FOODSTORE (ALDI) AND TWO DRIVE-THRU UNITS; AND  
LIGHT INDUSTRIAL FLOORSPEACE, LAND TO THE WEST OF NEW COURTWICK  
LANE, WICK, PLANNING REFERENCE: LU/72/25/OUT**

As you are aware, we act for Tesco Stores Limited and made representations relating to the above application in our letter of 3<sup>rd</sup> July 2026. We have now considered the Officer's Report to next Wednesday's Planning Committee and have further considerations that need to be raised.

**Failure of the sequential assessment test**

Our 3<sup>rd</sup> July representation set out the justification behind our finding that land associated with the Neighbourhood Development Plan designating North Littlehampton Local Centre should be confirmed as a suitable and available opportunity to accommodate part or whole of the phase one retail component. The Council has relied upon the advice of its retail consultant, Nexus, in particular as set out in their Supplementary Advice dated February 2026. This asserts that the concept of disaggregation does not apply generally to development proposals simply because the NPPF does not specifically sanction it. But correctly interpreted and applied the sequential test should assess whether component parts of a proposal have a "*functional relationship*" with other parts of the proposed development. This is illustrated by the Inspector's decision in the appeal by Lidl in the context of neighbouring retail development at Altrincham (APP/Q4245/W/21/3267048). The Inspector found that "*The Homebase comprises an existing store operating from the retail park. The appellants witness contends that the Homebase store and proposed Lidl foodstore are 'functionally linked'. However this 'functional' relationship appears to focus on reducing the lease liability for Homebase. I am unable to agree that this*

*amounts to a 'functional' relationship which would negate the need to consider disaggregating the Lidl from the Homebase. Whilst the co-location of the two retailers may be beneficial from a trading perspective, there is no reliance or functional relationship which would mean that disaggregating the Lidl store should be discounted. There is no clear functional connection."* (paragraph 12).

The drive-through components of the current proposal do not have a functional relationship with the proposed food store. They can function independently. And it is the functional relationship in the context of considering opportunities elsewhere, rather than how they might be physically connected within the application proposal, that is the relevant consideration. And, of course, phase 2 has no functional relationship and cannot figure in sequential test analysis.

It is then informative to review the Nexus advice on whether the sequential test is met with regard to the North Littlehampton location. The advice on 'suitability' is, "...*that the indicative development layout prepared by T&L Crawley is able to accommodate the proposed food store and one of the food/beverage units*" and that "...*it would be possible for the T&L Crawley land to provide a suitable alternative to the New Courtwick Lane application site*" (paragraph 4.5). On 'availability' the advice is that "...*the land in question is generally available, given that it is vacant, is being marketed and T&L Crawley have provided indicative development layouts to Arun District Council (ADC).*" (paragraph 4.6). Notwithstanding this, Nexus express concern that bringing the land forward "...*may be complicated, due to the nature of overlapping planning permissions, and therefore ADC officers will need to consider whether, if there is a scheme to be proposed, whether it can achieve an implementable planning permission in a reasonable period of time*" (paragraph 4.6). This is sensible advice to the Council, but the Officer's Report does not address it. That is a serious concern. The Report simply states that the location "...*is concluded to be unsuitable in practice due to its limited scale, uncertainty, and inability to accommodate the proposals*". Those concerns primarily go to the issue of disaggregation which we have addressed above.

The sequential test is not therefore passed as is asserted in the Officer's Report. On the basis of the correct interpretation and application set out above, the test is failed. That is a key breach of the relevant development plan policy as supported by paragraph 91 and 95 of the NPPF and advice within the NPPG.

### The significance of retail impacts

The assessment by the Council's consultant, and reported in the Officer's Report, is that there would be a "...*clear adverse impact on Littlehampton town centre, with a*

*significant adverse impact not ruled out...*. National policy explains that “Where an application...is likely to have significant adverse impact on (town centre vitality and viability) it should be refused” (paragraphs 94 b) and 95 of the NPPF). The content of the relevant Local Plan Policy reflects this. In addition, we note, from the Officer’s Report, that “...the principle harm arises from the loss of expenditure and resulting structural effects on the function and role of these centres, rather than solely from qualitative deficiencies in the public realm or town centre management.” Thus, the Officer correctly explains that any mitigation measures would “...require careful consideration as to whether they are capable of reducing the identified impact”. It is therefore in this context that the package of proposed mitigation measures needs to be considered.

However, the proposed mitigation measures principally comprise three financial contributions, totalling nearly £500,000 relating exclusively to public realm and town centre management initiatives. They should therefore be given very little, if any, weight in terms of being able to reduce the significance of the retail impacts.

There is also a proposal to secure “An obligation to ensure that the proposed food store is not occupied by an existing grocery retailer in nearby ‘town centres’ unless there is an on (sic) obligation/commitment to the town centre store remaining open”. In this regard we draw attention to the Officer’s Report on the Norway Lane application (LU/93/25/PL) where advice is given on the use of an obligation relating to future trading of a town centre store. Although the structure of that obligation may differ, the general point made by the officer is that, “Such obligations are inherently difficult to enforce as they seek to require the continued operation of a business rather than regulate land use. Enforcement would rely on action where a retailer ceases trading, which is ultimately outside the control of the Local Planning Authority and dependent on commercial viability. As a result, such obligations are generally considered unreliable in practice and raise concerns in relation to the statutory tests, particularly in terms of necessity and enforceability. Moreover, even where the obligation is complied with, it would only secure occupation for a limited five-year period, after which there would be no requirement for the unit to remain open”. The officer concludes that this would not be a “...robust form of mitigation in terms of town centre vitality and viability”.

A further point arises, if the obligation suggested for the subject application were considered to be unenforceable, and the overall package of financial mitigation is demonstrated to be largely, if not wholly, ineffective then their purposes are negated. However, it appears that these measures have been put forward by the applicant as being ‘necessary’ to remove the breach of development plan and national policy arising from the significance of retail impact on Littlehampton town centre. Thus, the demonstrable ineffectiveness of these measures serve only to reintroduce the policy breach justifying refusal of planning permission.

### The weight to be afforded to the outline component for 8,800 m<sup>2</sup> of industrial and/or distribution development

The Officer's Report explains, in respect of the overall site, that "*...information submitted with the application highlights the benefit of the reuse of a relatively prominent brownfield site*". And that it is important to, "*...take into consideration that the development proposal will enable the regeneration of a long-term vacant site that is poorly maintained...and therefore detracts from the visual quality of the surrounding area*". The Report explains that "*...Officers conclude that this can be given some weight in the planning balance*".

However, the Officer nevertheless confirms that the Phase 2 element is "*...subject to a high degree of uncertainty...has been submitted in outline only, with no secure delivery mechanism...or planning obligations to ensure it's implementation alongside the Phase 1 retail development*". The Report also explains that "*...The presence of significant unresolved drainage constraints raises substantial doubts as to whether this phase of development would be deliverable in practice*". As a consequence, the Officer explains that "*...only very limited weight should be afforded to the potential benefits of Phase 2 in the overall planning balance*".

Bearing in mind the above, we consider that no weight can be afforded to this component. As explained above, whilst the planning application has been promoted as enabling regeneration of the whole site and that in granting planning permission for the retail development there is then a prospect that employment development will more likely come about, that connection is not explicitly confirmed. Indeed, there is no robust evidence demonstrating any such connection. Thus, the likely inability to develop the balance of the site for beneficial purposes will substantially detract from any development that does come forward on the Phase 1 site. Such harm and conflict to relevant Development Plan Policy has not been assessed notwithstanding that there is a recognition that the site in its undeveloped state causes harm to the visual quality of the surrounding area.

There is no suggestion that the Phase 1 development will secure the provision of the employment development and thus the redevelopment of land that detracts from the visual quality of the local area. It is unreasonable for the Report to find that there are economic benefits that arise and should be given even "*only very limited weight*". Rather, no weight should be afforded, and consideration must be given as to the harm that non-delivery of this large area of land/premises constitutes harm to relevant development plan policies.

### The Planning balance

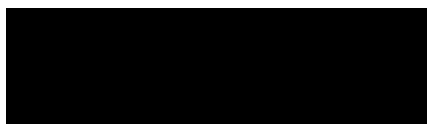
Bearing in mind the Officer's Report has failed to correctly address the sequential test of the retail element in disaggregated form and, has inappropriately raised doubts as to the suitability and availability of the opportunity that remains at North Littlehampton, it can be shown that the sequential test is failed. This creates an important breach of development plan policy.

The Nexus advice confirms the likelihood of a significant adverse impact on Littlehampton town centre. Whilst a package of mitigation measures have been put forward, the Officer explains how these are not capable of reducing the identified impact. There is also concern as to the enforceability of the 'keep open' obligation. Such contributions and obligations need to pass the test of 'being necessary' i.e. to address a development plan issue. If mitigation is found to be ineffective and potentially unenforceable, then the significance of the retail impact remains and must have great weight in the Planning Balance.

No weight can be afforded to any suggested benefits that arise from the Phase 2 element. The Officer's Report makes repeated comments relating to its uncertainty and there is a lack of any positive obligations being given to assist its delivery. There are also critical surface water drainage issues. The failure to deliver Phase 2 therefore introduces a policy breach relating to harm to visual amenity and potentially prejudices the delivery of the suggested employment premises in the future.

Bearing in mind all of the above, and in particular ensuring that planning policies are interpreted and applied correctly, leads to a decision where, when the development plan is considered as a whole, the various breaches that then arise weigh firmly in favour of refusing planning permission. The limited benefits are unable to constitute material considerations that outweigh such a finding. In these circumstances planning permission should be refused.

Yours sincerely,

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**Martin Robeson**

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