REPORT UPDATE

Application No: R/60/12/

Reason for the Update / Changes

Reason for Update/Changes:

CORRECTION OF ERRORS

Page 251 - "A bus lay-by on the east side of the retail park spur road is to be provided before the temporary store opens" the bus lay-by works need to be associated with the main store application not the temporary store.

Page 255 - "The County Council have suggested three conditions to be included to cover issues of the provision of a bus lay by, parking and turning, and a construction management plan" as above, the bus lay-by works should not be connected to the temporary store application.

EDITS TO CONDITIONS

Page 256 - Condition 10. Deleted in favour of condition 12

Page 257 Condition 11. "Before the development is occupied, the proposed bus lay-by on the retail park spur road shall be designed/constructed in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority" the bus lay-by works should not be connected to the temporary store application.

Note: The changes to recommendation, conditions and/or reasons are attached on the amended replacement recommendation sheet.

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

R/60/12/

Recommendation Report for Planning Permission

REF NO: **R/60/12/**

LOCATION: Unit A
Rustington Retail Park
New Road Rustington

PROPOSAL: Temporary use of former Focus retail unit as Class A1 food store for the period of 18 months

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The proposal is for the temporary use of Unit A of the Rustington Retail Park as an A1 retail store for a duration of 18 months. The 18 month time period to which this permission will apply will run concurrently with the build period should R/59/12 be granted planning permission. The proposal includes minor alterations proposed for the car park for the provision of 314 car parking spaces. The proposal will have a gross floor area of 3,299 square metres and a sales floorspace of 2,004 square metres.
SITE AREA	1.6 ha
RESIDENTIAL DEVELOPMENT DEN	N/A
TOPOGRAPHY	Predominantly flat though at a lower level than the A259 which runs along the northern boundary.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	Trees and shrubs on three sides
SITE CHARACTERISTICS	Existing DIY Store and Garden Centre compromising the western part of the Rustington Retail Park. A railway line exists to the south and the entire southern boundary benefits from tree cover. A Halfords and Pets at Home Unit abut the application site to the east whilst a Sainsbury's foodstore with associated car parking is situated further east beyond the main access road.
CHARACTER OF LOCALITY	Part of an existing retail park in an out of town centre location.

RELEVANT SITE HISTORY

R/194/87	35,000 sq ft of ground floor non-food retail warehouse space plus 1,100 sq ft of ancillary offices on first floor with associated vehicle parking to County Planning standards site roads and alterations to existing highways	Approve Conditionaly 10-08-1987
R/54/06/	Construction of a restaurant building for use for purposes within Class A3 of the Use Classes Order 1987 (as amended)	Approve Conditionaly 20-06-2006
R/72/08/	Alterations to Rustington Retail Park to incl. the demolition of the existing Focus Unit (& associated garden centre), relocation of electricity sub-station, construction of 3 retail units (including garden centre), alterations to car park & associated landscaping alterations	Approve Conditionaly 03-10-2008
R/103/10/	External alterations, reconfiguration of car parking, pedestrian and cycle access to provide refurbished retail unit	Approve Conditionaly 18-08-2010
R/105/10/	Erection of mezzanine floor	Approve Conditionaly 18-08-2010
R/10/11/	Variation of condition 4 attached to planning application Ref: R/194/87 to allow for the sale of food within the Focus retail unit, Rustington Retail Park; alterations to the external elevations; and a new mezzanine comprising an additional 465sqm retail floorspace.	Approve Conditionaly 15-07-2011
R/210/11/	Renewal of unimplemented planning permission R/72/08/ - Alterations to Rustington Retail Park to incl. the demolition of the existing Focus Unit (& associated garden centre), relocation of electricity sub-station, construction of 3 retail units (including garden centre), alterations to car park & associated landscaping alterations	Approve Conditionaly 05-12-2011

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

REPRESENTATIONS

Representations received:

Rustington Parish Council

Rustington Parish Council- no objection

Comments on Representations received:

Comments noted

CONSULTATIONS

SE Economic Development Agency

WSCC Local Development Divis.

Southern Water Planning
Environment Agency
Network Rail
Sussex Police-Community Safety
Parks and Landscapes
Engineering Services Manager
Economic Regeneration
Design Council

Consultations responses received:

County Highways-

The County Council has reviewed the transport assessment provided with the application and supporting information provided by the applicant s consultant.

The County Council accepts that the transport assessment provides an adequate estimate of the likely traffic generation of the store. The Council also accepts that the existing retail park car park should have sufficient capacity to accommodate car trips to the temporary store.

A bus lay-by on the east side of the retail park spur road is to be provided before the temporary store opens. We suggest that this should be subject to a condition. A condition requiring a construction management plan is also suggested.

Southern Water- No objection

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

Sussex Police- No comments

Environment Agency- No objection

Comments on Consultation responses:

The comments of the County Council are noted. The applicants have provided further information to the County Council which it is currently assessing it.

POLICY CONTEXT

Designation applicable to site:
- Within Built up Area Boundaries
- Class A road
- "Out of Centre" for the purposes of the National Planning Policy and PPS4 Practice Guidance
- Outside the Principal Shopping Areas for the purposes of Local Plan Policies DEV 26 and DEV27

DEVELOPMENT PLAN POLICIES

South East Plan:	SEPCC1	Sustainable Development
	SEPCC2	Climate Change
	SEPCC4	Sustainable Design and Construction
	SEPCC6	Sustainable Communities and Character of the Environment
	SEPNRM1	Sustainable Water Resources and Groundwater

		Quality
	SEPNRM10	Noise
	SEPNRM11	Development Design for Energy Efficiency & Renewable Energy
	SEPT4	Parking
Arun District Local Plan:	GEN12	Parking in New Development
	GEN14	Public Transport
	GEN15	Cycling and Walking
	GEN2	Built-up Area Boundary
	GEN32	Noise Pollution
	GEN33	Light Pollution
	GEN34	Air Pollution
	GEN8	Development and the Provision of Infrastructure
	DEV26	Criteria for Retail Development
	DEV27	Retail Development Outside the Principal Shopping Areas

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework

POLICY COMMENTARY

The above policies combine to describe the criteria against which the application will be assessed particularly with regard to effect on the local highway network and vitality and viability of identified primary shopping areas.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

PLANNING
Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

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

OTHER MATERIAL CONSIDERATIONS

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

The Development Plan consists of the Arun District Local Plan 2003 and the South East Plan adopted in 2009.

It should be noted that the Arun District Local Plan was adopted in 2003 and the South East Plan in
2009.

In accordance with paragraphs 214 of the NPPF, the South East Plan is afforded full weight as

part
of the development plan. However, footnote 41 (page 49) states the Governments clear policy intention to revoke regional strategies.

Paragraph 215 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight but, because it predates 2004, a reduced weight. The weight of the Local Plan policies
can be assessed according to their level of consistency of the various policies with the National Planning Policy Framework.

NPPF Paragraph 216 confirms that weight can be given to policies in emerging plans following publication. At the time of writing the Draft Local Plan has recently been published. It was considered by Full Council on June 19th 2012, and the draft was approved for public consultation. At present, the Draft Local Plan is at an embryonic stage and so the policies should be given minimal weight.

CONCLUSIONS

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

The proposal is for the temporary use of Unit A of the Rustington Retail Park as an A1 retail store for a duration of 18 months. The 18 month time period to which this permission will apply, will run concurrently with the build period should R/59/12 be granted planning permission. There will be no time when the two stores will overlap. The detailed commencement of the temporary permission will be included in a Section 106.

DEVELOPMENT PLAN BACKGROUND

For the purposes of section 38(6) of the Planning and Compulsory Purchase Act (2004), consideration must first be given to the Arun District Local Plan (2003). The saved Local Plan policies of most relevance to the proposal are Local Plan Policy DEV26 and DEV27.

In terms of national planning guidance the key paragraphs of relevance in the National Planning Policy Framework are Paragraphs 24, 26 and 27.

Whilst the application should still be assessed against normal development plan and national planning guidance it is necessary to appreciate the special nature of this temporary permission. The key objective of the permission is to provide continuity of service to the customers of the existing Sainsburys Store at the Rustington Retail Park. As such the only suitable location for the proposed site is at the Rustington Retail Park.

RETAIL IMPACT

In terms of retail planning the Local Plan Policies (specifically DEV 26 Retail Development and DEV 27 Retail Development Outside the Principal Shopping Area) do not materially add to the considerations which would in any event be required by NPPF, and that the Development Plan does not provide any more onerous tests than those found in NPPF. As such the retail impacts of the application will be judged against the criteria set out in the NPPF.

NPPF PARAGRAPH 24- SEQUENTIAL ASSESSMENT
The application for a main town centre use that is not in an existing centre and not in accordance with an upto date Local PLan. The Local Plan and National Planning Policy Framework require a sequential assessment. Only if suitable sites in town centres, the in edge of centre locations, are not available should out of centre sites be considered. Applicants and local planning authorities are required to demonstrate flexibility on issues such as format and scale.

The applicants have not provided a sequential assessment with their application. As set out above it is necessary to appreciate the special circumstances surrounding this application for temporary permission. The objective of the permission is to provide continuity of service for the customers of Sainsbury's at Rustington Retail Park.

Furthermore, the proposal is to retain the existing retail space on the same site. There will be no additional retail floorspace over and above what is existing on Rustington Retail Park.

NPPF PARAGRAPH 26- IMPACT ASSESSMENT
The proposal is for retail use outside of a town centre, which is not in accordance with an upto date local plan. In these circumstance the NPPF sets out that the application should be refused where there is evidence that the proposal would be likely to have a significant adverse impact on one or more of the factors set out in paragraph 26 of the Framework.

The relevant impacts to be considered are on "existing committed and planned public and private investment in a centre or centres in the catchment area of the proposal" and on "town centre vitality and viability, including consumer choice and trade in the town centre and wider area".

The applicants have not provided an assessment of the impact of the proposed store. However, the proposed store is substantially smaller that the existing store at Unit A so it can be reasonable assumed that it will not have a negative impact on town centre vitality of viability of town centres in the catchment.

The proposal will have a neutral effect on consumer choice and trade in the town centre, and will have a positive effect on consumer trade in the wider area, as it will provide continuity of trade and ensure that an existing competitor in the out of centre retail trade in the District retains its presence during the redevelopment proposed in R/59/12.

The effect on planned public or private investment is of greater significance. Given the temporary nature of the proposal, and its core function as a temporary replacement for the existing Sainsubrys Store at Rustington Retail Park, the proposal is not likely to affect any likely public or private investment in Littlehampton Town Centre, or other retail centres within the District.

However, recently renewed planning permission (R/210/11) for a significant redevelopment of the application site will be impacted by the proposed development. The redevelopment involves the demolition of the existing vacant unit and its repacement with the construction of three new modern retail units, with a total retail floor space of 5,016 square metres.

The proposed redevelopment will not be able to come forward in conjunction with the temporary store as the store would be in use. However, the special cicumstances of the application for temporary permission should be considered. The landowner of the site have been supportive of this application and involved in the wider proposals for the site. Given their support for the

application under consideration here, it cannot be considered that the redevelopment has a strong likelihood of coming forward in the near future.

As there is a low likelihood of the R/210/11 approved scheme being developed in the near future, the application is not therefore likely to have an impact on planned private investment.

NPPF PARAGRAPH 27- ADVERSE IMPACTS
Overall it can be seen that due to the special circumstance of the application, the proposal does not fail to satisfy the sequential test, and it is not lilkely to have significant adverse impact on the vitality of the town centre, local consumer choice or town centre trade. Therefore there are no retail ground on which to refuse the application.

HIGHWAYS IMPACT AND PARKING

County Highways accepted that the transport assessment provided with the application and supporting information is acceptable. While the County intially raised some concerns about the adequacy of parking, the applicants provided further information which satisfied them that the level of information was sufficient about parking generated by the store.

The County Council have suggested three conditions to be included to cover issues of the provision of a bus lay by, parking and turning, and a construction management plan. These have been included below.

VISUAL AND RESIDENTIAL AMENITY
The proposal is for a change of use of an existing building. Therefore, the visual and residential amenities of the area will not be adversely affected as there are no significant changes being proposed to the building.

S106 Agreement

The temporary consent is for 18 months. The date on which this 18 month period will begin is subject to a S106 agreement. This temporary use will extinguish after 18 months or first occupation of the building provided by R/59/12, whichever is sooner.

CONCLUSION
The proposal is considered to be acceptable and will have no significant adverse impact on the amenities of the area, highway safety or the vitality or viability of existing town centres. It is, therefore, recommended that the application be approved subject to the conditions set out below.

RECOMMENDATION

APPROVE CONDITIONALLY SUBJECT TO A SECTION 106 AGREEMENT

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 plans:

Temporary Store Site Location Plan CHQ.11.9647- PL10A
Temporary Store Existing Site Plan CHQ.11.9647- PL11 A
Temporary Store Proposed Site Plan CHQ.11.9647- PL12 A
Temporary Store Proposed Store Plan CHQ.11.9647- PL13 A
Temporary Store Elevations CHQ.11.9647- PL14 A
Temporary Store Ex. / Prop. Roof Plan CHQ.11.9647- PL15

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy GEN 7 of the Arun District Local Plan.

3 Prior to first use of the temporary food retail store hereby approved, the applicants will confirm in writing with the local planning authority that the existing Sainsbury's at Unit C Rustington Retail Park has ceased trading.

Reason: To accord with the stated intentions of the submitted Design and Access Statement in accordance with Policy GEN7 of the Arun District Local Plan.

4 The net retail sales area (defined by the National Retail Planning Forum, and reproduced in Appendix A of the PPS4 Practice Guide, 2009) for the temporary store hereby approved shall not exceed 2,004 square metres. No mezzanine floors are to be inserted in any part of the building, retail floorspace or non-retail floorspace areas, whatsoever, without the prior approval of the Local Planning Authority.

Reason: To accord with the stated intentions of the submitted Design and Access Statement, and the submitted Retail Impact Assessment in accordance with the NPPF.

5 External lighting in association with this development shall comply with Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light, Obtrusive Light Limitations for Exterior Lighting Installations for Zone E2.

Reason: To safeguard the residential amenities of the local area in accordance with policies GEN7 and GEN 32 of the Arun District Local Plan.

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

Reason: To comply with Arun District Local Plan policy GEN32, the applicant s submitted Noise Assessment and in accordance with the NPPF.

7 A maximum of 1 HGV delivery per hour will be made to store between the hours of 07.00 and 23.00 Mondays to Saturdays.

Reason: To comply with Arun District Local Plan policy GEN32, the applicant s submitted Noise Assessment and in accordance with the NPPF.

8 A maximum of 4 HGV deliveries at a rate of 1 delivery per hour shall be made to the

retail store during the hours of 23.00 to 07.00 Mondays to Saturdays.

Reason: To comply with Arun District Local Plan policy GEN32, the applicant s submitted Noise Assessment and in accordance with the NPPF.

9 Grocery on-line deliveries shall only be made between the hours of 07.00 and 23.00 daily.

Reason: To comply with Arun District Local Plan policy GEN32, and to safeguard the residential amenity of the area in accordance with the Arun District Local Plan

10 No new development shall be occupied until space has been laid out within the site in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority for minimum 314 customer cars and a minimum of 20 cycles to be parked and for the loading and unloading of (number to be agreed) vehicles and for vehicles to turn so that they may enter and leave the site in forward gear. Sufficient on-site car and cycle parking shall also be provided for staff, the exact numbers to be submitted to and approved in writing by the Local Planning Authority. The parking/turning area shall be used and retained exclusively for its designated purpose.

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.

11 Before the development is occupied, the proposed bus lay-by on the retail park spur road shall be designed/constructed in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

Reason: In order that the development should not prejudice highway safety nor cause inconvenience to other highway users.

12 No new development shall be occupied until space has been laid out within the site in accordance with a scheme to be submitted to and approved in writing by the Local Planning minimum 20 cycles to be parked. The parking area shall be used and retained exclusively for its designated purpose.

Reason: In order that the development should not prejudice highway safety nor cause inconvenience to other highway users.

13 No development shall start until a Construction Management Plan, to include details of:

Element 1: Public Safety, Amenity and Site Security
Element 2: Operating Hours, Noise and Vibration
Controls
Element 3: Air and Dust Management
Element 4: Stormwater and Sediment Control
Element 5: Waste and Materials Re-use
Element 6: Traffic Management, including lorry routing and site operative vehicle parking

has been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall be implemented during the construction period.

Reason: In order that the development should not prejudice highway safety nor cause inconvenience to other highway users.

14 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), nor would it have an unacceptable impact on the vitality and viability of local retail centres, and there are no material considerations to indicate otherwise.

RELEVANT POLICIES

LOCAL PLAN: GEN2, GEN7, GEN18, DEV26, DEV27, GEN32, GEN33, GEN34

Regional Spatial Strategy for the South-East: SEPCC1, SEPCC2, SEPCC4, SEPCC6, SEPT4, SEPRN1, SEPRN11

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.