

Recommendation Report for Planning Permission

REF NO: BE/114/17/PL

LOCATION: Oldlands Farm
Steyping Way
Bersted
PO22 9NN

PROPOSAL: Variation of conditions 4-quantum of floorspace, 43-number of non food bulky goods units & 47-sale of goods imposed under BE/61/13/ (outline).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application seeks permission for the variation of conditions 4 (quantum or floorspace), 43 (number of non food bulky goods units) and 47 (sale of goods) imposed under BE/61/13/ (outline) to allow the creation of 1,325 square metres of Discount Convenience Retail.
	The proposed variation to the conditions does not create any additional floor space beyond that originally permitted at the site but rather allows for the provision of discount convenience retail sales at the site.
SITE AREA	Approximately 12.49 hectares.
TOPOGRAPHY	Predominantly flat.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	The boundaries of the site are largely devoid of any significant demarcation. Some tree planting has taken place adjacent to the access road.
SITE CHARACTERISTICS	The site is located to the south of the Bognor Regis relief road and has been cleared with heras fencing having been erected. The site benefits from outline permission under reference BE/61/13/ for 33,116 sqm of mixed commercial and industrial uses (comprising A1, A3, A5, B1, B2 and B8) with associated works and landscaping.
CHARACTER OF LOCALITY	The northern/western boundary is formed by the A259 Northern Relief Road as it arcs northeast and crosses the railway track, segregating the site from the fields to the north. The area to the north of A259 Northern Relief Road and south of the village boundary forms part of the Flood Compensation Area. The eastern boundary of the site adjoins the former 'phase 1C' of the site which has been developed by Rolls Royce. The western perimeter of the site is contained by the A29. To the south lies an area of open land. Further to the south is the Southern Cross Industrial Estate containing large

industrial warehouses, buildings, offices (use classes B1- B8) and a fast food restaurant.

RELEVANT SITE HISTORY

Outline permission was granted under reference BE/61/13/ for 33,116 sqm of mixed commercial and industrial uses (comprising A1, A3, A5, B1, B2 and B8) with associated works. Layout, scale and appearance were reserved matters.

In March 2017, a Reserved Matters application was approved under reference BE/4/17/RES for the appearance, landscaping layout and scale together with the master-plan, parameter plans and Design Code. The approved development included two car showrooms, one large retail unit for A1 Bulky Goods and three smaller units for B8 Warehouse and Distribution use with ancillary trade counter.

REPRESENTATIONS**REPRESENTATIONS RECEIVED:**

Bersted Parish Council

No objection.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted.

CONSULTATIONS**CONSULTATION RESPONSES RECEIVED:**

Bognor Regis Regeneration Board:

It is recommended that;

1. ADC refuses the planning application for the Retail Convenience Store on Oldlands Farm.
2. The ADC owned site at the proposed Hothampton Linear Park should be reconsidered which will comply with ADC's town centre retail development policies.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted. The application has been accompanied by a sequential assessment and retail impact assessment as required by the NPPF. Therefore, the proposed variation of conditions 4, 43 and 47 will be considered in accordance with relevant development plan policies in the conclusion to this report.

POLICY CONTEXT

Designation applicable to site:

Within built up area boundary

SITE 5(iii)

SITE 6

DEVELOPMENT PLAN POLICES

Arun District Local Plan (2003):

DEV26	Criteria for Retail Development
DEV27	Retail Development Outside the Principal Shopping Areas
GEN6	Amount of New Commercial Development
SITE5	Commercial Allocations

Publication Version of the Local Plan (October 2014):

EMP DM2	Enterprise Bognor Regis
EMP SP2	Strategic employment land allocations
RET DM1	Retail Development
RET SP1	Hierarchy of Centres

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

A new local plan is in preparation and is a material consideration when determining Planning Applications. At this stage the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and supporting documents were submitted for independent examination on 30 January 2015. The Examination into the submitted plan was suspended whilst Arun District Council addressed matters raised by the Inspector but it resumed on 17th September 2017 and has now concluded. The District Council is awaiting the Inspector's report which is due out in Spring 2018. The Main Modifications to the Arun Local Plan and evidence base are being made available for public consultation.

Representations can be submitted to the council over a six week period starting on Friday 12 January until 5pm on Friday 23 February. This follows on from the Arun Local Plan examination hearings held in September 2017.

A number of Main Modifications to the Arun District Local Plan 2011-2031 (Publication Version) October 2014 were approved by the Council on 22nd March 2017 and consultation on these has taken place. The Main Modifications should be read alongside the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and where there are changes the Main Modification may also be material consideration to take into account. The examination ended in Autumn 2017 following publication of modifications to the Plan..

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a

material consideration the closer it is towards it being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation (Reg.14).

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton. The written Ministerial Statement of 13 December 2016 confirms that relevant policies for the supply of housing in Neighbourhood Plans should not be deemed to be out of date where all of the following circumstances arise;

- The NDP has been part of the development plan for 2 years or less or the ministerial statement is less than 2 years old
- The NDP allocates sites for housing
- The Council can demonstrate a three-year supply of deliverable housing sites

Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation(Reg.14).

The Bersted Neighbourhood Plan has been made but there are considered to be no policies relevant to this application for the variation of conditions 4, 43 and 47 of planning application BE/61/13/.

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 proposed variation of conditions 4, 43 and 47 of planning approval BE/61/13/ are considered to comply with relevant Development Plan policies in that it would have no materially adverse effect on the vitality or viability of the defined centres within Arun District.

OTHER MATERIAL CONSIDERATIONS

It is considered that the Arun Retail Study (2016) is a material considerations in the determination of this application.

CONCLUSIONS

PRINCIPLE

The principle of commercial development in this location has been established with the approval of hybrid planning application BE/61/13/. Therefore, the key consideration in the determination of this application to vary conditions 4, 43 and 47 of BE/61/13/ is the impact of the proposal upon the vitality and viability of retail centres within the catchment area of the application site.

POLICY CONSIDERATIONS

Arun Local Plan (2003):

Policy DEV26 of the Arun District Local Plan 2003 requires the retail hierarchy to be maintained. The application site is outside the Principle Shopping Areas. As an out of centre development, policy DEV27 applies. Part (i) mirrors the NPPF considerations of vitality and viability in Paragraph 26.

Part (ii) and (iii) relate to the accessibility of the site from the highway network and public transport and for the site to be accessible by cycle and on foot. It is considered that the accessibility of the site was a matter of consideration under the original hybrid application (BE/61/13/). It is considered that the proposed variation of conditions 4, 43 and 47 to facilitate A1 (convenience food) retail will not adversely impact upon the highway network, public transport or accessibility of the site beyond the already established and permitted A1 (bulky goods) retail permitted at the site.

National Planning Policy Framework:

NPPF Paragraph 23 requires planning policies to be positive, promote competitive town centres and ensure sites are available in suitable centre and edge of centre sites for main town centre uses. Where centre and edge of centre locations are not available, accessible locations well connected to the town centre should be considered.

Paragraph 24 of the NPPF requires a sequential test to be applied on planning applications for main town centre uses that are outside an existing centre or not in accordance with an up-to-date development plan. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre.

Paragraph 26 of the NPPF requires an impact assessment for development located outside of a town centre or not in accordance with an up-to-date Local Plan which exceed a proportionate locally set threshold (a default threshold of 2,500sqm if there is no local policy threshold). The emerging Local Plan under paragraph 9.2.1 sets a threshold of 1,000 sqm for Town Centres, Large Service Centres and the Six Villages and 200 sqm for village and suburban centres.

Paragraph 26 goes on to note that impact assessments should consider two matters:

- i. The impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- ii. The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application was made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.

Paragraph 27 states that where an application fails to satisfy the sequential test or is likely to have a significant adverse impact on one or more of the above factors, it should be refused.

A sequential assessment and retail impact assessment have been submitted as part of this application and at the request of the LPA the sequential test has been based upon a 10 minute drive.

Emerging Arun District Local Plan:

Policy RET SP1 identifies the hierarchy of Town Centres with paragraph 9.2.1 identifying that impact assessments for growth of office, leisure and retail development will be required from a threshold of 1,000 sqm for Town Centres, Large Service Centres and the Six Villages and 200 sqm for village and suburban centres. Therefore, a retail impact assessment has been identified as necessary by virtue of the floor area of the discount convenience retail proposed.

Policy RET DM1 (3) states that Town Centre uses located outside of the centres defined on the Policies Maps will only be permitted if;

- a. The scheme meets the impact tests of the NPPF;

- b. The scheme is easily accessible by the highway network and public transport;
- c. The scheme includes provision for access by cycle and foot;
- d. The scheme includes appropriate provision to enable access for people with disabilities.

As identified above due to the previous approval at the site RET DM1(3) (b), (c) and (d) are already established. Therefore, the key consideration in the determination of this application will be compliance with the sequential assessment and impact tests identified within the NPPF.

SEQUENTIAL TEST

Paragraph 24 of the NPPF states that the LPA should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. It is further stated that applications for main town centre uses should be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. Paragraph 24 also requires applicants and Local Authorities to demonstrate flexibility on issues of format and scale.

Due to the product range and floor area requirements of bulky goods retail the following requirements have been identified by the applicant;

- The ability to sell products from a minimum of 3,000 square metres.
- A demised at grade customer car park of an appropriate size directly adjacent to the retail unit to allow the safe and direct transfer of goods from store to customer vehicle, in particular for the purchase of bulky goods.
- The provision of an outside area to store trolleys.

The following additional requirements have been identified in relation to a limited line discount convenience (e.g. Lidl or Aldi) business model;

- A site that can allow for the safe manoeuvring of customer vehicles and delivery vehicles on site.
- A prominent site with the ability to attract passing trade.
- A site that is easily accessible by a choice of means of transport.
- A site that is able to offer benefits to its customers, including adjacent surface level car parking, so that customers can easily transfer goods to their vehicles.
- Provision of a dedicated service area to the rear of the store, including ability to accommodate HGV's.
- A single storey, open and unrestricted sales floor area, which benefits from a level/flat topography, or which has the ability to be developed as such.

Given the requirements identified above a site size of approximately 2 hectares would be required to accommodate all elements of the proposal for which development is sought. However, in accordance with paragraph 24 of the NPPF the sequential assessment must be flexible.

The issue of flexibility in the sequential assessment was considered by the Supreme Court in Tesco Stores Ltd v Dundee City Council UKSC 13. In this case it stated that;

'...it is the proposal for which the developer seeks permission that has to be considered when the question is asked whether no suitable site is available within or on the edge of the town centre'

This interpretation of what constitutes a 'suitable site' was considered in the decision for appeal APP/J4423/A/13/2189893 in which it was stated;

'In considering the issue of suitability I have had regard to a ruling of the Supreme Court which indicates, amongst other matters, that what needs to be established is whether an alternative site is suitable for the

development proposed, not whether the proposed development can be altered or reduced so that it can be made fit for purpose.'

This interpretation of 'suitable' was also identified within appeal decision APP/M3455/A/13/2195541 in which it was stated that "...although an application is expected to demonstrate flexibility in assessing alternative sites, there is no unequivocal requirement to reduce the size of a proposed development to fit a particular site."

The judgement of Aldergate Properties Ltd v Mansfield District Council provides further guidance in relation to this with the Court identifying that 'suitability' and 'availability' for the sequential test did not depend on the commercial characteristics of any specific retailer. The test could not be dictated to by a specific trader's preferences. Instead it was clarified that the LPA must look at the proposed development's approximate size, type and range of goods and at the sites that are available for it. However, it is considered that in this case the developer has not sought to dismiss sequential sites based on any specific operator requirements.

The NPPF (paragraph 24) also refers to 'available' sequential sites. No reference is made to sites that will become available in the future. The Rushden Lakes decision is relevant in terms of when a site is 'available' in the context of the sequential test. In this decision the Inspector stated;

"In terms of availability, NPPF simply asks whether town centre or edge of centre sites are 'available'. It does not ask whether such sites are likely to become available during the remainder of the plan period or over a period of some years."

Therefore, in order for a site to be considered available as part of the sequential test it must be currently available, not available at some point in the future.

On this basis and in the interests of flexibility the applicant has undertaken the sequential test in relation to the requirements of the A1 retail element of the proposal only. As such, the sequential assessment has been carried out on a site size requirement of 1.1 hectares (as opposed to the 2 hectares originally identified for the specific proposal). The proposed 1.1 hectare site size would allow for a reasonable area of car parking, whilst taking into account a reasonable operational format.

The site size for the sequential assessment has been independently considered on behalf of the Council by Lichfields who concluded that it is unlikely that the food store could be accommodated on a site much less than 1 hectare.

In consultation with the LPA the sequential assessment, in this case, was based upon a catchment area of a 10 minute drive time from the application site. This catchment area was considered appropriate by the Council on the basis of the scale and nature of food store proposed and this approach has been confirmed as reasonable by the Lichfields

Therefore, the catchment area for the sequential test encompasses:-

Vacant units within those defined centres within the catchment area including;

- Bognor Regis Town Centre;
- Barnham Village Centre;
- Felpham Local Centre;
- Middleton-on-Sea Local Centre;
- Yapton Local Centre;
- Various Retail Parks at South Bersted

Sites identified as development opportunities;

- The Regis Centre; and
- Hothampton Car Park

As well as commitments within the Council's 2016 Retail Study and other sequentially preferable locations agreed with the Council.

Bognor Regis:

Vacant units within Bognor Regis Town Centre have been considered and it was found that whilst there were a number of Town Centre Vacancies within the core retail area, these were primarily small scale high street retail units which did not provide sufficient floor area. In addition, the sites identified were unable to accommodate the servicing and parking requirements of the proposed use. Consideration was also given to The Royal Hotel and the adjacent Jack Rabbit Slims bar located on the Esplanade which are both larger vacant units, but with a site area equating to approximately 0.1ha it would be too small to accommodate the requirements of the proposed use.

Village/Local Centres:

The village centres of Barnham, Felpham, Middleton-on-Sea and Yapton were also considered as part of the sequential assessment. Whilst, some vacant units were identified in this assessment they were found to be small scale and incapable of providing sufficient floor area for the proposed use. Nor would the available sites been able to facilitate the servicing and parking requirements needed.

South Bersted Retail Park:

The six retail parks located at South Bersted were considered as part of the sequential assessment and the submitted report identifies that this included Shripney Trade Park, Durban Park, Arun Retail Park, Arun Business Park, Southern Cross Retail Park and Peel Retail Park. At the time of survey (May 2017) it was identified that there were no available vacant units within the retail parks that could accommodate the proposed development (even with allowing additional flexibility in respect of car parking reduction).

Development Opportunities;

The Regis Centre is situated within close proximity to the primary shopping area and as such has been incorporated as part of the sequential assessment for new retail uses. Planning permission was refused under reference BR/156/16/PL on the 1st February 2017 for the redevelopment of the Regis Centre site and this refusal has subsequently been appealed by the applicant. However, the sequential assessment has identified that the space available within the previously proposed scheme (BR/156/16/PL) would not have been acceptable. The site is discounted in sequential terms as it is not considered suitable for a large format discount food store, nor is the site considered available at the time of assessment for the development proposed.

Hothampton Car Park has also been considered in the sequential assessment. The site was included as part of the application for redevelopment of Bognor Regis which was refused under reference BR/156/16/PL. This application sought to redevelop the site and would have been orientated towards delivering a high quality leisure use facility to compliment the Regis Centre redevelopment. The plans submitted to date in relation to redevelopment of the site have focused on providing small scale retail units suitable for high street occupiers. The sequential assessment undertaken by the applicant also states that the site would not be able to accommodate the development proposed due to its small size (approximately 0.6 hectares) and access difficulties from surrounding residential streets. As such, the site was discounted from being sequentially preferable as it was not considered suitable or viable in comparison to the application site.

It should be highlighted that in the sequential assessment of alternative sites for the proposed retail development, there is no requirement specified within the NPPF for the site to be 'viable' as part of the

sequential assessment.

It should also be noted that the Hothampton Car Park and Regis Centre sites form part of the Council's wider "Gardens by the Sea" regeneration aspirations for Bognor Regis. Therefore, it is considered that at this time neither site can be considered available for the proposed development irrespective of if the sites were deemed suitable.

Commitments within the Council's Retail Study (2016);

The only commitment within the Council's Retail Study (2016) which has been identified with the sequential assessment was planning permission BE/37/14/ which related to the Units D1 and D2 of the Arun Retail Park. This scheme specifically enabled the occupation of Unit D1 by M&S Simply Foodhall and Next to occupy unit D2. This scheme has been implemented with the M&S Foodhall opening in October 2015. Therefore, it is considered that there are no planned commitments which could provide a sequentially preferable alternative.

The only other commitment which has been identified within the sequential assessment was BE/61/13 which this planning application is directly related too.

On the basis of the sequential site assessment undertaken by the developer it is considered that flexibility has been applied in accordance with Paragraph 24 of the NPPF and that no sequentially preferable sites have been identified which are suitable and available within a 10 minutes drive time catchment of the application site.

The methodology and conclusions above are based upon the evidence and detail provided by the applicant. Due to the highly technical and specialised nature of sequential assessment for retail development the LPA are in the process of receiving further advice and guidance from an independent external retail expert to confirm that the assessment is suitably robust.

RETAIL IMPACT ASSESSMENT

Policy RET DM1 of the emerging Arun District Local Plan under section 3(a) requires retail development outside of the town centres and local service centres to meet the impact tests of the NPPF. Paragraph 26 of the NPPF, requires development that exceeds a proportionate, locally set floor space threshold to be supported by a retail impact assessment. The default threshold is set at 2,500 sqm under paragraph 26 of the NPPF. However, the emerging Arun District Local Plan under paragraph 9.2.1 sets a 1,000 sq m threshold for Town Centres, Large Service Centres and the Six Villages and a 200sqm threshold for village and suburban centres. Therefore, with the proposal seeking to provide 1,346 sqm of A1 retail the requirement for a retail impact assessment is triggered.

Paragraph 26 requires the authority to consider whether there is clear evidence that the proposals could lead to significant and demonstrable adverse impacts in respect of existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area.

The retail impact assessment prepared in this case focuses upon the defined centres encompassed within the catchment area of the sites (10 minute drive time), these are;

- Bognor Regis Town Centre;
- Retail Parks at South Bersted;
- Barnham Village Centre;
- Felpham Village Centre;
- Middleton-on-Sea Village Centre; and

- Yapton Village Centre.

Consideration of retail impact has focused upon the above centres, possible trade draws and turnover of existing convenience food retailers. An evaluation of the emerging Arun District Local Plan by the applicant has identified no retail allocations within the above defined centres. Therefore, no existing, committed or planned public investments have been identified within the adopted or emerging Local Plans which would be adversely impacted by the proposed retail development.

In terms of the impact on existing, committed or planned investment, the applicant has acknowledged Policy Site 2 of the Arun District Local Plan within the retail impact assessment but has stated that there are no current development briefs concerning regeneration of Bognor Regis.

However, consideration must be given to the proposed redevelopment of The Regis Centre and Hothampton Car Park (which have been identified within the sequential assessment) and were the subject of a previous planning application. These sites were the subject of consultation by the Council in 2015 which inspired the existing "Gardens by the Sea" regeneration proposals. The Council are seeking to deliver a new theatre, central hub, cafes, bars, restaurants, shops, hotel and pub. The regeneration of these sites is unlikely to consist of any major convenience food retail focusing instead upon leisure and tourism. Therefore, it is considered that the proposal in this case will not result in any significantly adverse impacts upon any existing, committed or planned public or private investment in any of the identified centres.

However, it nevertheless remains necessary in accordance with Paragraph 26 of the NPPF to assess and establish the impact of the proposed development on town centre vitality and viability (including local consumer choice and trade in the town centre and wider area).

In assessing the level of impact of the variation of condition to provide 1,325 sq m of A1 (Discount Convenience Retail) the applicant identifies that in 2023 the proposed convenience store would have a turnover of £8.21m or 6.4% of the catchment areas available convenience expenditure. This results in a further £127.78m of convenience expenditure from the catchment area still going to other convenience retailers within and outside of the defined retail centres in the wider surrounding area. The proposed store will see a net turnover increase of £2.45m in 2023 when compared to the existing turnover of the Lidl store located adjacent to the application site, at the Peel Centre. This increase in turnover will result from the increase of Lidl's net sales area by 316.7 sq m.

It has been identified by the applicant within their retail impact assessment that the proposed Lidl will result in trade diversion. But that this will fall predominantly upon the existing Lidl store and other mainstream store operators. The anticipated trade draw from the existing Lidl is considered to equate to £5.67m comprising 69.9% of the proposed new stores turnover. The majority of the trade draw will be from the existing convenience retailers located outside of the Bognor Regis Town Centre. This has been identified as;

- Tesco Superstore - £1.07m (impact of 2.24%)
- M&S Foodhall - £0.1m (impact of 1.47%)
- Sainsburys - £0.5m (impact of 1.86%)

The anticipated impact on Bognor Regis Town Centre has been identified as 0.89% which equates to a convenience trade draw of £248,222 (3.06% of the proposed Lidl's turnover). The impact of the proposal upon other local centres is identified as falling below 0.1% with a convenience trade draw of between £2,889 (Aldwick - albeit located outside of the 10 minute drive time catchment area) and £1,833 (North Bersted - local centre).

No trade draw impact has been identified in relation to Barnham due to its location outside of the 10 minute drive time catchment area. Whilst, the applicant has incorrectly identified that there is no convenience retail within Yapton and Felpham. However, there is a 'Tesco Express' in Felpham and a 'Co-Op Food' in Yapton both of which fall within the 10 minute drive-time catchment. However, it is considered that the majority of their trade will be localised with the shops serving the areas immediate surrounding them and as such will not result in perceptible levels of trade being drawn to the proposed discount convenience retail.

LICHFIELDS ASSESSMENT

The LPA have sought further retail guidance from Lichfields in relation to the retail impact assessment undertaken by Rapleys in support of this application. A number of 'issues' were identified by Lichfields in relation to the Rapleys impact assessment, which were;

1. an earlier design year of 2022 should have been adopted rather than 2023;
2. Rapleys may have under-estimated the convenience foods turnover of the proposed Lidl store (£9.08 million rather than £8.21 million);
3. revised benchmark turnover estimates for existing convenience foods retail floorspace in Bognor Regis based on the latest ORC's Storepoint and the Global Data information including VAT;
4. the store could be occupied by another food store operator with no Lidl relocation, and this will result in higher trade diversion; and
5. small adjustments to the distribution of trade diversion.

In order to test the findings of the Rapleys impact assessment, Lichfields reassessed the retail impact of the proposal by applying the points identified above. The proportional impact of large food stores under the Lichfield assessment model identified the impact on food stores in Bognor Regis as ranging from -0.7% to -2.3%, rather than the -0.1% to -2.45% identified by Rapleys.

The Lichfields assessment also considered the scenario in which the proposed store was operated by an alternative mainstream retailer (other than Lidl). In this scenario, with Lidl remaining at the Peel Centre, then the impact figures are much higher with the proportional impact on large food stores in Bognor Regis ranging from -1.1% to -11.9%.

The Rapleys report had identified an impact on Bognor Regis town centre of 0.89% (under the scenario in which Lidl occupied the proposed store), the revised methodology adopted by Lichfields in their own assessment identified that this impact would be 1.69%. It was confirmed by Lichfields that the impact of the proposed Lidl store would be offset by convenience goods expenditure growth between 2018 and 2022. However, in the scenario that the proposed store was occupied by a mainstream food operator then the trade diversion from Bognor Regis town centre would be higher resulting in an impact of 6.1%.

It was identified by Lichfields that convenience goods floorspace in Bognor Regis appears to be trading around 7% below benchmark turnover levels but that this should reduce to around 5% below in 2022, due to expenditure and population growth. Assuming the worst case scenario and a mainstream retailer occupied the store then this would result in a trade diversion of approximately 11%. However, it has been identified by Lichfields that it is unlikely that town centre food stores would be forced to close if they traded at 11% below their respective company averages.

Lichfields identify that in their experience food stores commonly trade at 20% or more below their respective company averages. Therefore, the level of trade diversion and impact are not expected to cause trading difficulties for food stores located within Bognor Regis town centre. It was also identified that trade diversion from out of centre food stores is not a planning consideration.

On the basis of the retail impact assessment undertaken by Rapleys, as well as the further assessment

undertaken by Lichfields, it has been confirmed that the retail impact of the proposed variation of condition upon Bognor Regis town centre would not be significant. Therefore, the impact assessment submitted in support of this application is adequately robust and has demonstrated that the proposed variation of condition will not result in significant adverse harm to the vitality or viability of the town centre of wider area in accordance with paragraph 26 of the NPPF.

Given that the worst case scenario has been tested by Lichfields (mainstream retailer occupies proposed store and Lidl remains at Peel Centre) and the impact has been found to be acceptable. It is considered that should Lidl relocate to the new store and an alternative food retailer occupy the existing Lidl store at the Peel Centre, then it would not result in a significant impact upon Bognor Regis town centre or any other designated centre. It should also be considered that the existing Lidl store by virtue of its size would not be attractive to other food retailers and Lidl will likely retain control over the lease in the short term.

SUMMARY

The sequential assessment has been carried out in accordance with the requirements of the LPA with flexibility having been applied in terms of the format and scale of the proposed development and has failed to identify any suitable or available sites in accordance with paragraph 24 of the NPPF.

The retail impact assessment, which accompanied the application and the further assessment undertaken by Lichfields has identified that the proposed variation of conditions 4, 43 and 47 to allow for the creation of 1,325 sqm of convenience food retail will not give rise to any detrimental impact upon existing, committed or planned public and private investment in centres in the catchment area of the proposal. Nor has the impact assessment identified any significant adverse impacts upon the vitality or viability of the town centre and wider areas in accordance with paragraph 26 of the NPPF.

Therefore, it is recommended that the application is approved with Conditions 4, 43 and 47 of BE/61/13/ (outline) amended as identified 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 not exceed a total quantum of 33,116 square metres and within Phase 1a the quantum of any non B1, B2 or B8 (storage and distribution) floor space shall not exceed as the quantum listed below (all Gross Internal Area (GIA))

- A1 Discount Convenience Retail 1,325 square metres net sales
- A1 Bulky Goods Retail 3,041 square metres net sales including mezzanine floors
- Sui Generis Car Sales 1,858 square metres
- B8 Trade Counters 1,858 square metres
- B1/B2/B8 Uses 25,034 square metres
- Or in Total B1/B2/B8 Totalling 33,116 square metres.

Reason: For the avoidance of doubt and because the highway and retail impacts have been assessed on that basis in accordance with Arun Local Plan policies DEV26 and DEV27 and the National Planning Policy Framework.

2 Notwithstanding the provision of Section 55 of the Town and Country Planning Act 1990 (or any Act revoking and re-enacting that Act with or without modification) a maximum of two retail units will have a gross internal area of greater than or equal to 600 sqm. All other non-food bulky goods units will have a minimum gross internal area equal to or greater than 929 m².

Reason: As these figures reflect the retail assessment carried out and to protect the vitality and viability of designated local centres in accordance with Policies DEV26 and DEV27 of the Arun District Local Plan 2003.

3 The retail floor space hereby permitted, falling within Class A1 of the Town & Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification, shall not be used for the sale of goods other than:

- Convenience goods;
- Seasonal goods;
- DIY and/or garden goods;
- Household furniture, furnishings and textiles;
- Kitchen furniture and kitchenware;
- Electronic goods;
- Carpets, wall and floor coverings;
- Automotive accessories and bicycles;
- Leisure goods;
- Camping goods;
- Pets and pet supplies;
- Office furniture and supplies; and
- Arts and craft materials and supplies

And shall not be used for any other purpose within Class A1 of the Town & Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification.

Reason: To reduce the potential impact upon Bognor Regis Town Centre and to prevent non-bulky goods retailers locating at Oldlands Farm that the Council would prefer to see located within the Town Centre in accordance with adopted Local Plan Policies DEV26 and DEV27.

- 4 INFORMATIVE: All of the conditions imposed on BE/61/13/ (outline) shall remain in force except for conditions 4, 43 and 47 which are replaced by conditions 1, 2 and 3 above.
- 5 INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. 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.