

The information, recommendations and advice contained in this report are correct as at the date of preparation, which is more than two weeks in advance of the Committee meeting. Because of these time constraints some reports may have been prepared in advance of the final date given for consultee responses or neighbour comment. Any changes or necessary updates to the report will be made orally at the Committee meeting.

Case Officer	David Stevens
Application No.	20/00149/FULPP
Date Valid	3rd March 2020
Expiry date of consultations	1st July 2020
Proposal	Refurbishment and amalgamation of existing Units 2A & 3 Blackwater Shopping Park, including removal of existing mezzanine floors, revised car parking and servicing arrangements; relief from Condition No. 4 of planning permission 93/00016/FUL dated 10 January 1994 to allow use as a foodstore (Use Class A1) with new mezzanine floor to provide ancillary office and staff welfare facilities, ancillary storage and plant machinery areas; use of part of new foodstore unit as self-contained mixed retail and cafe/restaurant use (Use Classes A1/A3); relief from Condition No. 17 of planning permission 93/00016/FUL dated 10 January 1994 to allow extended servicing hours for the new foodstore unit of 0600 to 2300 hours Monday to Saturday (including Bank Holidays) and 0700 to 2000 hours on Sundays; loss of existing parking spaces to front of proposed foodstore to provide new paved area with trolley storage bays and cycle parking; installation of new customer entrances to new units; widening of site vehicular access to Farnborough Gate road to provide twin exit lanes; and associated works (re-submission of withdrawn application 19/00517/FULPP)
Address	Units 2A and 3 Blackwater Shopping Park 12 Farnborough Gate Farnborough
Ward	Empress
Applicant	Lothbury Property Trust Company Ltd
Agent	Quod
Recommendation	Refuse

Description & Relevant Planning History

The site is located on the margin of the Farnborough urban area within the Blackwater Shopping Park, formerly known as Farnborough Gate. The Shopping Park comprises a complex of retail outlets in a terraced L-shaped configuration. There are also two detached buildings, a McDonalds restaurant/drive-through takeaway (Unit 1) and a Costa coffee shop

(Unit 1A), on either side of the Shopping Park entrance road. The sole vehicular access point for customers and servicing is from the dual carriageway Farnborough-Frimley link-road to the north, which also adjoins the interchange for the A331 Blackwater Valley Relief Road. The on-site parking area is privately owned and managed by the operators of the Shopping Park. The Shopping Park currently has 588 car parking spaces, most of which are in front of the retail outlets. 41 spaces are at the rear of the Units within the service yard areas that are not available to customers and are used by staff, such that 547 parking spaces are available for the use of customers. An additional 26 spaces are specifically assigned to McDonalds customers, who are filtered into this corner of the Shopping Park by a left-hand filter lane from the main entrance and this area is managed to be cordoned off from the rest of the Shopping Park car park at night.

Servicing takes place to the rear of the main building terrace. There is a pedestrian footpath from Farnborough Road (A325) near the 'Bradford's' petrol filling station, which adjoins the Shopping Park at the south-west corner. A motor vehicle repair workshop at the rear of the petrol station abuts part of the south boundary, together with the Ringwood Road sports pitches. The nearest residential properties are in Ringwood Road, on the opposite side of Farnborough Road at Lancaster Way to the west, and the travellers' quarters on the opposite side of the link-road to the north.

With the exception of Boots (Unit 5), which sells a small amount of food (sandwiches, etc) the retail units sell non-food products only. They currently consist of one electrical store (Currys/PC World : Unit 8), a nursery/babywear store (Mamas and Papas : Unit 6A), a homeware store (Homesense : Unit 7), a chemists (Boots : Unit 5), three clothes retailers (Outfit (Unit 4), TKMaxx (Unit 2) and Next Clearance (Unit 2A) and a motor accessory/bicycle store (Halfords in a new unit [Unit 9?] to the side of Unit 8). A further homeware store (Bensons Beds) occupied Unit 6, which is currently vacant. Unit 3 is now vacant and used to be occupied by Halfords until recently.

Four Poplar trees adjoining the Shopping Park to the east are subject to Tree Preservation Order No.186. A public footpath (20b) also adjoins the Shopping Park to the east. Beyond the east boundary is the Guildford to Reading railway line and the River Blackwater, both occupying a narrow strip of land between the Shopping Park and the A331 road. A slip-road leaves the A331 to join the link-road to the north-east of the Shopping Park.

The original planning permission for the Shopping Park (93/00016/FUL) is subject to use and floorspace restrictions. The retail outlets (which includes the Units now known as 2A and 3 the subject of the current proposals) are restricted by Condition No.4 to the retail sale of non-food goods only and for no other purpose within Use Class A1, with the condition making clear that the units: *"in particular shall not be used for the general sale of food items"*. Condition No.5 requires that the total floorspace of the retail units does not exceed that permitted originally, including any ancillary office floorspace; and that no additional floorspace be created within the retail outlets without planning permission first being obtained from the Council. These conditions were imposed on the grounds that they were necessary to ensure compliance with the development proposals as submitted; and to ensure adequate car parking provision was available to serve the development. Condition No.17 of the original planning permission relates to the hours of delivery to retail units and specifies that *"No deliveries shall be taken at or despatched from the retail units...outside the hours of 0700 and 1900 Mondays to Saturdays and not at all on Sundays and Bank or Statutory Holidays."* The reason given for the imposition of this condition was: *"To protect the amenities of nearby residents."*

Planning permission was granted in July 2005 for the installation of a mezzanine floor in the

former Halfords store (Unit 3) to provide an additional 430 sqm of floorspace (to create a total of 1541 sqm), 05/00334/FUL. This permission was implemented.

A certificate of lawful use was granted in May 2006 for a mezzanine floor in the former Courts unit (now Next Clearance and TK Maxx : Units 2 and 2A), 06/00201/PDC.

Planning permission was granted in October 2006 for the installation of a mezzanine floor in the Outfit unit (Unit 4), to provide an additional 790 sqm of floorspace, 06/00606/FUL. This has been implemented.

In January 2007 an application was withdrawn for the installation of a mezzanine floor in Unit 5 (now Boots) to provide 600 sqm of additional retail floor space resulting in total floor area of 1245 sqm, 06/00743/FUL. This application had been recommended for refusal to the Development Management Committee on the basis that there were sequentially preferable sites to provide additional retail floorspace and that it had not been demonstrated that there was sufficient car parking to serve the development. A similar application for the adjoining Bensons Bed unit (Unit 6, currently vacant) was also recommended for refusal for the same reasons and subsequently withdrawn, 06/00742/FUL.

In January 2009 planning permission was granted for a variation of the condition on the original planning permission which restricted the use of the premises for the sale of non-food goods only to enable the sale of pet food in respect of Unit 5 (now Boots), 08/00810/REVPP.

In April 2009 permission was refused (09/00034/REV) for the installation of a mezzanine floor in Unit 5 (now Boots) to provide 319 sqm of additional floorspace, of which 246 sqm was to be retail sales area, resulting in a total floor area of 963 sqm. No external changes were proposed, nor was any additional car parking provision proposed. The application was refused as it was considered that there were sequentially preferable sites to accommodate the new retail floor space contrary to Government and Development Plan policy.

In May 2010 planning permission was granted (10/00148/REV) for the variation of Condition Nos. 3 & 4 of planning permission 93/00016/FUL to allow the installation of a mezzanine floor and the sale of lunchtime sandwiches and snacks, baby food and dietary products in Unit 5 (now Boots). This included the removal of an existing mezzanine floor and staircase and installation of a mezzanine floor with an area of 168 sqm to be used as a stock room, staff accommodation and offices with no retail sales. This permission was subsequently implemented and the Unit occupied by Boots.

In February 2011 planning permission (10/00847/FULPP as amended by 11/00262/NMA approved in May 2011) was granted for the demolition of the original security office and erection of a single storey building for use as a coffee shop (Use Class A3) and as a replacement security office, together with works to the car park to improve the circulation of vehicle movements within it to reduce the potential of vehicles queuing back onto the public highway. This permission was implemented and the coffee shop as built is operated by Costa Coffee.

The alterations to the car park also approved with the 2011 planning permission were aimed at improving vehicular access to and within the Shopping Park; and to reduce the potential for cars to queue back onto the link-road. The approved alterations involved the closure of one of the three existing access points into the car park, requiring traffic to route to either side of the car park (turning left or right at the entrance roundabout), thereby extending the distance cars must travel before they can find a parking space intended to encourage better utilisation of the whole of the car park area. In addition, a number of alterations to the car

park's circulation were approved, including the introduction of a filter lane into McDonalds aimed at reducing the ability for drive-through traffic to block access into the Shopping Park. A more conventional pattern of car park circulation within the Shopping Park was also approved, within which all primary circulation aisles were to be signed to operate one-way, together with the provision of a new cross-circulation aisle. Servicing (deliveries and refuse collection) for the coffee shop was approved to take place from a designated area located at the front of the premises and conditioned to take place outside of peak trading hours. These approved works to the car park were partly implemented, particularly in relation to the closure of the access off the roundabout, the introduction of the filter lane and circulation around the car park.

In 2013 planning permission (13/00508/FULPP) was refused for the erection of a new retail unit adjacent to TK Maxx (Unit 2) at the northern end of the building with a gross internal floor area of 1,162 sqm following the removal of 65 existing car parking spaces. The refusal was on retail grounds, the lack of a transport contribution and the resultant inadequate car parking. The proposed unit comprised two floors with 697 sqm being provided at ground floor, with a further 465 sqm at mezzanine level. The identified occupier was Hobbycraft. It was also proposed to reconfigure the central customer car park to improve circulation, in so doing, seeking to reverse some of the changes approved and implemented in 2011.

An appeal was subsequently lodged against the refusal of planning permission, which was dealt with by way of a Hearing. In February 2014 the Development Control Committee resolved not to defend the car parking reason for refusal following the receipt of additional survey and assessment data regarding parking provision. A Unilateral Undertaking was submitted at the Hearing to secure a transport contribution to address the third reason for refusal. However, the Inspector did not agree with the applicant's case that Hobbycraft's specific business model could side-step the sequential test. She found that the appellants analysis was focused specifically on the requirements of Hobbycraft and did not acknowledge that planning permission ran with the land. Accordingly, the Inspector was of the view that the sequential test had little prospect of success under these circumstances. In dismissing the appeal, the Inspector acknowledged that whilst there may be no sequentially preferable site acceptable to Hobbycraft there is no reasonable condition that could guarantee that this company would occupy the proposed new unit in perpetuity. The evidence indicated that there were at least two edge of Farnborough Town Centre sites (therefore clearly both in sequentially preferable locations to the appeal site at BSP) that could have accommodated a use of this type and the appellants had not properly considered them. The failure to satisfy the sequential test and the harm that would ensue was considered sufficient to outweigh any other advantages that might be attributed to the appeal proposal.

In January 2018 planning permission (17/00866/FULPP) was granted for the erection of a new retail unit having a gross internal floor area of 1305 sqm (743 sqm at ground floor, with 562 sqm at mezzanine level) in the south east corner of the Shopping Park attached to Currys/PC World (Unit 8). This scheme approved the loss of 73 parking spaces in this location. This approved new retail unit is and is now occupied by Halfords, who have recently vacated Unit 3 within the Shopping Park.

Condition No.18 of the 2018 planning permission restricts the use of the new Halfords unit to the retail sale of non-food bulky goods in order to prevent conflict with Government and Development Plan policies relating the protection of town centre retailing and the operation of the sequential and needs tests. Subject to the bulky non-food goods restriction, planning permission was only granted because there were no sequentially preferable sites that could provide this scale and type of retail floorspace.

The 2018 planning permission creating the new Halfords unit also approved proposals to reconfigure the central customer car park, in effect reversing many of the alterations to the car park area approved and implemented in 2011. These approved works have been implemented and have involved undertaking improvements to the circulation within the car park and the widening of the in-bound side of the vehicular access from the link-road to full two-lane width. The implemented approved works have also included the re-opening of central (i.e. straight-ahead) arm from the adjoining entrance roundabout to allow vehicles a further point of ingress and egress into the car park.

Planning permission (19/00693/FULPP) was granted in November 2019 for the removal of all of the existing brise soleil structures from above the customer entrances to the existing retail outlets in the Shopping Park. Similarly, a non-material amendment (19/00675/NMAPP) was approved in October 2019 for the deletion of the brise soleil feature from the new Halfords retail outlet.

A planning application for proposals identical to those the subject of the current application was submitted to the Council in 2019 (19/00517/FULPP) but withdrawn in January 2020.

Advertisement consent for the display of various non-illuminated directional and warning signs within the customer car park area; on the fence beside the pedestrian access ramp from Farnborough Road; and the entrance to the service yard was approved in October 2020 (20/00665/ADVPP).

The Current Application : The current application is a resubmission of the previous withdrawn proposal the subject of planning application 19/00517/FULPP with revised supporting information. The red-line for the current planning application contains all of the existing parking and servicing areas of the Shopping Park, together with the whole of the vehicular entrance from the public highway at the link-road, and also includes Units 2A (currently Next Clearance) and 3 (vacant, formerly Halfords). However all of the other retail outlets, together with McDonalds and Costa Coffee, are excluded from the red line area.

The current proposals are for the refurbishment and amalgamation of the existing Units 2A (Next Clearance) & 3 (vacant, formerly Halfords) including removal of the existing mezzanine floors : the total floorspace to remain is 1933 sqm following the removal of 1532 sqm of existing mezzanine floorspace. It is understood that the Next Clearance outlet is to close and that Next simply intend to rely on their existing retail outlet at The Meadows in Sandhurst rather than seek new premises for their Clearance outlet.

It is proposed that the vacated refurbished floorspace be converted into a discount foodstore [annotated "New Unit (1)" on the submitted plans] measuring 1866 sqm, of which approximately 355 sqm would be ancillary goods reception and warehouse space, including freezer and chiller facilities; together with an ancillary office/staff welfare facilities of 98 sqm provided with a modest new mezzanine floor. The applicants indicated from the outset that the intended tenant of the proposed new foodstore unit would be Aldi. It is also proposed that a separate adjoining self-contained mixed retail and restaurant/café (Use Class A1/A3) outlet [annotated "New Unit (2)" on the submitted plans] measuring 186 sqm be provided using the remainder of the vacant floorspace.

The submitted plans show the existing service area to the rear of the proposed foodstore unit to be modified by digging into the existing ground level to create a single recessed articulated lorry loading dock : a 'dock leveller'. It is also indicated that the area between the proposed lorry dock and the rear of the building would be used for the siting of the various ancillary

refrigeration and cooling plant that the proposed foodstore and ancillary stock warehouse would require.

The proposals involve the installation of new glazed shopfronts and entrance doors for both New Units 1 and 2. A line of parking spaces to the immediate front of the proposed new units would, in part, be lost to provide a paved area for covered trolley bays and cycle parking, together with some re-configured disabled parking bays. Overall, 17 existing parking spaces would be lost.

The proposal description necessarily refers to the application also seeking relief from Condition No.4 of planning permission 93/00016/FUL dated 10 January 1994 in order to allow use of the vacated retail floorspace as a foodstore, since this condition otherwise restricts the retail outlets within the Shopping Park to being for sale of non-food retail goods only. Furthermore, change of use of part of the vacated retail floorspace to use as self-contained mixed retail and café/restaurant use (Use Classes A1/A3) is also sought with the application to enable the creation of the proposed New Unit (2).

Relief from Condition No. 17 of the original planning permission is also sought to allow extended servicing hours for the proposed new foodstore unit of 0600 to 2300 hours Monday to Saturday (including Bank Holidays) and 0700 to 2000 hours on Sundays.

Also proposed with the application is the widening of site vehicular access to the link road to provide twin exit lanes - at present the exit is only partially of two-lane width. The proposed widening is achieved by a minor adjustment to the line of the pavement and kerb-line to the side of the access road.

The application is supported by a Planning and Retail Assessment, a Transport Assessment, a Framework Travel Plan, Vehicle Tracking Diagrams demonstrating the lorry manoeuvring needed for articulated lorries to enter and leave the site with the proposed delivery dock, a Flood Risk Assessment, an Environmental Noise Survey, Air Quality Assessment, and a Noise Assessment. As a result of a request for more information from Hampshire County Council Highways, the applicants more recently submitted micro-simulation data for traffic using the site access.

Members will recall that this application was reported to the 11 November 2020 meeting of the Development Management Committee. However, due to the receipt of late objections on behalf of Lidl shortly before the meeting date, the Committee agreed that consideration of the application be deferred pending the Council seeking legal advice on the issues raised. The applicants' agent has subsequently responded to the Lidl objections in a letter received by the Council on 17 December 2020.

Consultee Responses

HCC Highways Development Planning	No highways objection subject to condition following the receipt of the requested additional information; and a financial contribution of £5,750.00 being secured with a s106 Planning Obligation in respect of the implementation, evaluation and monitoring of the Travel Plan.
Environmental Health	No objection subject to conditions.
Planning Policy	Objection.

RBC Regeneration Team	No comments received during the consultation period, thereby presumed to have no objections.
Environment Agency	The Environment Agency do not wish to be consulted on developments of this type.
Hampshire Fire & Rescue Service	No objections and provides generic fire safety advice/guidance.
Neighbourhood Policing Team	No comments received during the consultation period, thereby presumed to have no objections.
Thames Water	No objections.
Guildford Borough Council	Consultation acknowledged, but no formal response received since. As the consultation period has long since expired it is thereby presumed that this consultee has no objections.
Hart District Council	No objections.
Surrey Heath Borough Council	No objections <i>subject</i> to Rushmoor BC being satisfied that the proposal is in accordance with local and national policy and there are no sequentially preferable sites within Farnborough Town Centre.
Waverley Borough Council	No comments received during the consultation period, thereby presumed to have no objections. [Officer Note: No objections were raised in respect of the previous withdrawn application, 19/00517/FULPP.]

Neighbours notified

In addition to posting a site notice and press advertisement, 50 individual letters of notification were sent to properties at Blackwater Shopping Park, Farnborough Road, Lancaster Way and Ringwood Road in early August 2019. Letters were also sent to St Modwen, Legal and General Investment, KPI and Knight Frank Investors as major stakeholders within Farnborough town centre.

Representations

Representations **in support** of the proposals have been lodged directly with the Council on-line from the occupiers of the following properties in Farnborough:- 35 & 56 Churchill Crescent; 24 & 45 Fairfax Road; 2 Edwins Court, Farnborough Road; 48 Hawley Lane; 4 Highgrove; 20, Holt Close; 11 & 63 Lye Copse Avenue; 29 Marston Drive; 17 St. Clements Court, Meadow Road; 35 & 51 Newton Road; 41 Oaken Copse Crescent; Ashton House, Pond Road; 26 Prince Charles Crescent; 7, 18, 41 & 54 Prospect Avenue; 137 Prospect Road; 19, 82 & 94 Sandhill; 5 Ship Alley; 70, 104, 112 & 150 Ship Lane; 62G Union Street; and 1 Woodland Crescent. Representations in support have also been received from the occupiers of three properties outside the Borough at:- 62 Kingsway, Blackwater; and 78 Sheridan Road and 11 Trafford Road, both in Frimley.

In addition, printed pre-addressed postcards providing a space for people to make their own comments in connection with the proposals have been received all also making representations **in support**. These have been received from the occupiers of:- 34 Churchill

Crescent; 22 & 42 Cromwell Way, 11 & 27 William Hitchcock House, Fairfax Road; 371 & 387 Farnborough Road; 18 Grange Road; 4 Highgrove; 7 Lye Copse Avenue; 18 St. Clements Court, Meadow Road; 20 Newton Road; 4 & 20 Ringwood Road; 2 Sherwin Crescent; 16 & 26 Willow Crescent; 9 Woodland Crescent; 6 & 17 Worcester Close; and 8 Station Road, Frimley.

The following summary comments are made in support of the proposals:-

- (a) Excellent proposals that should be welcomed;
- (b) The proposals are good for Blackwater Shopping Park – which has needed (and should have) a foodstore for a long time. It would benefit existing retail outlets there by boosting retail spending; and be a benefit to the local area and community;
- (c) Farnborough needs an increased choice of foodstores, especially good quality affordable foodstores;
- (d) The new employment opportunities are welcomed;
- (e) Having an Aldi discount foodstore in Farnborough is long overdue – people currently have to travel by car to Blackwater or Basingstoke to shop at one;
- (f) The proposed foodstore would be convenient and affordable for local people. The town centre supermarkets are too remote from this area. An Aldi foodstore at BSP would be accessible to local people whom do not have or wish to use cars and/or are disabled/elderly;
- (g) The town centre Sainsburys and Asda supermarkets need better/more competition;
- (h) The proposed café would make people spend more time at BSP;
- (i) No new building would be required;
- (j) Glad to see that the traffic issues of BSP are being addressed; and
- (k) Both the proposed discount foodstores at Solartron Retail Park and BSP would be a boost for the area.

One correspondent supporting the proposals requests that the existing ramped pedestrian access into BSP be improved – as it is steep, sometimes covered in leaves and slippery in winter.

The applicants' agents have also submitted to the Council a short report titled 'Farnborough Feedback Analysis' and a more recent update to this that describes the results of a community engagement exercise undertaken by the applicants to promote their proposals and the responses that were received as a result.

The following **objections** to the proposals have also been received:-

Lidl Great Britain Limited c/o RPS Objection : raised to proposals on the basis of the Officer recommendation to grant planning permission published by the Council for the 11 November 2020 Development Management Committee meeting because in their view:-

1. The Officer conclusion on the sequential test is incorrect because the Solartron Retail Park site (Units 3 & 4 SRP) is still 'available'; and, as such, the proposals for an Aldi food store at BSP fail the sequential test for site selection. It is asserted that this sequentially preferable food store unit would only cease to be available once Lidl has occupied the SRP unit and the planning permission for food store use has been implemented. In this respect, the fact that Lidl is currently seeking to take the unit on themselves is immaterial. A High Court judgement (Aldersgate Properties Ltd. v Mansfield District Council [EWHC 2016]) is

cited that determined that ownership of a site by another retailer was not determinative on the issue of 'availability' for the purposes of the sequential test. As a result, it is argued that the SRP unit will not become 'unavailable' until the SRP permission has been implemented and Lidl has occupied that unit;

2. Lidl argue the existence of a further sequentially preferable site within the town centre that has not been considered in the assessment undertaken by the applicants for the proposed BSP scheme. This relates to Units 3 & 4 at Horizon Retail Park, which are currently occupied by Oak Furnitureland and Harveys. Lidl advise that they have recently been approached by commercial property agents asking whether Lidl would be interested in occupying a unit created from the combination of these two units instead of locating at SRP. This is on the basis that these units may possibly become available in the future. Since Lidl are continuing with the SRP scheme, this other town centre site is advanced by Lidl as another potential alternative location in a sequentially preferable location that should be considered by the applicants. As such, since the current applicants have not considered this other potential town centre site, Lidl claim the BSP proposals also fail the sequential test for site selection on this ground;

3. In terms of considering the possible impact of the BSP proposals on committed investment in Farnborough Town Centre, Lidl assert that granting planning permission for the BSP scheme, thereby enabling Aldi to locate at BSP, may well prejudice the implementation of the permission for the foodstore unit at SRP – which is planned investment within Farnborough Town Centre. This is because the applicants' agents for the BSP scheme argue that the BSP scheme is likely to be implemented (and thereby Aldi to commence trading and become established) before Lidl would be able to do so at SRP. Lidl support this argument on the basis of the need for Carpetright to re-locate from Unit 4 to Unit 7 SRP before works can begin on the new foodstore unit; and because substantial works will need to be undertaken at SRP to create the new foodstore unit. On this basis, Lidl argue that the improvements to the retail offer of the Town Centre that would accrue from the implementation of the SRP unit would be likely to be lost, to the detriment of the vitality and viability of the Town Centre.

4. Key background documents have been requested by a Freedom of Information Act 2000 relating to the current BSP planning application case, but have not yet been provided. In this respect the FOI request was received by the Council midday on Friday (6 November 2020) and requested a response by close of office 10 November 2020; i.e. within 2 1/2 working days of receipt. Lidl's objection letter was received by email in the morning of 10 November 2020.*[Officer Note: the Council has since made the background documents available to this objector; and, indeed, they have also been made publicly available with the other application documentation on-line via the Council's Planning Web-pages.]*

In conclusion, Lidl argue that the proposed discount foodstore at BSP fails both the impact and sequential tests and that planning permission

should be refused. To grant planning permission in the current circumstances would be contrary to both the Council's Local Plan and the NPPF and would leave the Council's decision vulnerable to legal challenge in the High Court.

[Officer Note: as a consequence of the receipt of this objection initial legal advice was obtained by Officers to the effect that the matters raised required further consideration and legal advice before the Council should finalise any recommendation or determine the planning application. Accordingly, the Officer Recommendation put to the Committee at the 11 November 2020 meeting was amended to the effect that consideration of the application be DEFERRED – and this was agreed by the Committee at the meeting.]

Agents acting for Lidl have since submitted a further (second) letter of objection which, in addition to reiterating the matters already raised in the first objection letter, raise in summary the following additional points:-

5. The SRP is clearly a sequentially preferable site within the town centre – it is clear that SRP is within the Farnborough Town Centre boundary as identified by the Council's current adopted Local Plan and covered by Policy SP2. Quod's suggestion that it is not a Town Centre site is incorrect, and any impact on the planned investment in Units 3 & 4 SRP is therefore clearly material.

6. Sequentially preferable locations often have site assembly issues that are more problematic than are the case with out of centre sites. Since the proposed SRP foodstore unit is available it should be given the best chance of being implemented and occupied before a similar proposal for BSP is approved. It would be inappropriate for the Council to allow a rival discount foodstore located in an out of centre location the opportunity to commence trading, and thereby gain a commercial advantage over a similar discount foodstore approved for a sequentially preferable town centre site.

7. While there is a qualitative need to provide a new discount foodstore in Farnborough, the quantitative capacity is limited, with the existing large foodstores (Sainsburys and Asda) currently under trading. Permitting a second discount foodstore at BSP will result in one of two scenarios: i) the development of the SRP discount foodstore unit may be jeopardised, meaning there will be a significant adverse impact on planned investment in Farnborough town centre; or ii) two discount foodstores being implemented (one at SRP and the other at BSP) would lead to a cumulative impact of a further 9.4% reduction in trade against benchmark levels for existing Farnborough town centre convenience retailers that are already under trading. It is considered that this is likely to result in a significant adverse impact on the vitality and viability of Farnborough town centre. Under either scenario NPPF para.90 says planning permission should be refused.

8. Quod's suggestion that, despite the foodstores in Farnborough Town Centre under trading, Farnborough town centre is actually performing

well, because other stores in other locations outside Farnborough are trading strongly, is not considered a reasonable argument. If North Camp or Frimley are trading above expected level it is asserted that Aldi should look to locate in one of those locations rather than in Farnborough where the centre is not trading robustly.

9. The fact that Aldi and Lidl are seeking to develop stores in Farnborough at the same time does not demonstrate that there is capacity for two discount foodstores. Lichfields have advised the Council that there is insufficient expenditure capacity to support two additional discount foodstores. There is simply a qualitative need for a discount foodstore in a town where there is currently none – and both Lidl and Aldi are competing to be that one foodstore. Given the limited expenditure capacity, it is considered that only one should be allowed, and the SRP discount foodstore is in the sequentially preferable location and already has consent.

10. It is incorrect for Quod to argue that Lidl continuing to progress a contract for the SRP foodstore site in full knowledge of the BSP proposals for an Aldi means that Lidl would proceed with the SRP site irrespective. It is simply Lidl's expectation that the Council will correctly apply retail planning policy and refuse planning permission for the BSP proposals. If the Council does not, Lidl would be forced to reconsider making a substantial investment in Farnborough Town Centre, especially as Quod are arguing that the rival Aldi foodstore would be able to open at BSP with little delay probably ahead of Lidl being able to open at SRP.

11. At the time of writing the second objection letter, Lidl or their agents are not aware that the current applicants have investigated the suggested further potential sequentially referable site at Units 3 & 4 Horizon Retail Park.

[Officer Note: The applicants were made aware of the Lidl objections and, by letter received on 17 December 2020, responded as follows:-

(a) Lidl raise no new issues; all points have been previously addressed in earlier correspondence;

(b) Lidl's summary of advice received by the Council to the effect that the proposed development conflicts with development plan policy does not represent a true reflection of the advice provided;

(c) Advice received by the Council in respect of the proposals is clear in concluding that the proposals the subject of the current application will not lead to a significant adverse impact on planned investment in, or on the vitality and viability of, Farnborough Town Centre;

(d) Advice received by the Council in respect of the application proposals also accepts that no sequential opportunity exists if, as the applicants assert, the approved SRP opportunity is not considered suitable and available;

(e) *It is argued that, as established by case law, whether a site is “available” is a matter of judgement for the local planning authority. In this respect, by considering all the evidence available, Officers have already determined that the SRP site is not available for the proposals at BSP - and there is no reason why this position should now change.*

(f) *There is nothing new presented by Lidl that demonstrates that the SRP is available to accommodate the proposals at BSP;*

(g) *Likewise, there are no alternative site elsewhere, including that suggested by Lidl at Horizon Retail Park, that are suitable and available within a reasonable period to accommodate the proposals and*

(h) *Overall, for the reasons stated, the applicants argue that there is no reason the previous officer recommendation to approve the planning application should now change.]*

Legal & General
(Owners of
Solartron Retail
Park), C/o Savills

Objection on the following summary grounds:-

1. Sequential Approach to Site Selection : The land being promoted for a discount foodstore at Solartron Retail Park (SRP) is in a sequentially preferable location to Blackwater Shopping Park. The Applicant has not provided any new evidence as part of the current application to demonstrate why the development cannot be accommodated at SRP instead. The proposed amalgamation of Units 3 and 4 at SRP would create a premises entirely commensurate with the proposed premises at Blackwater Shopping Park in terms of scale, servicing, car parking and customer accessibility. SRP is also available, suitable and viable to accommodate a 'discount foodstore'. It follows that the proposed development, as with the previous withdrawn application, continues to fail to comply with the sequential approach to site selection.

2. Assessment of Impact : The NPPF requires applicants to consider the impact of the proposed development on 'planned' investment within Farnborough's defined Town Centre. The proposal at SRP does represent 'planned investment' in that it is actively being pursued by the owner and is a sequentially preferable site. The grant of planning permission for a foodstore at Blackwater Shopping Park may have an adverse impact on the delivery of an identical form of development at SRP. In this respect, the effect could be:-

i. To reduce the operator demand for discount food within Farnborough's defined town centre; and

ii. Generate a level of cumulative impact on a defined centre that could be determined to be 'significantly adverse'.

On the contrary, proposed development for a foodstore at SRP would improve the retail offer within the wider Town Centre and create genuine opportunities for linked trips with existing business and in particular those in the Primary Shopping Area.

3. Suitability of Evidence on Highways and Transportation : The Applicant has provided additional evidence relating to the assessment of the impact of the development on the local highway network. The Applicant has used standard ARCADY modelling to assess the impact of new trip generation following commencement of the proposed development. L&G would request that the Highway Authority seeks to validate whether the outputs of the standardised modelling system accurately reflects the 'on site' position in terms of flows and queuing. The use of a micro-simulation model may be deemed more appropriate to pick up localized patterns of movements at Blackwater Shopping Park; particularly in the 'peak' times.

Summary and Conclusion : The Applicant has not provided any new evidence as part of the latest application. Further questions also arise in respect of the submitted evidence relating to impact on Farnborough Town Centre and highway and transportation policies.

- | | |
|------------------------------------|---|
| 5 York Road,
Farnborough | Objection : I would dearly love a Farnborough Aldi (as I think this is going to be) but I really question the location of it. Aldi and Lidl are both extremely popular grocery stores now and to put it on Farnborough Gate would just create chaos. The car park is not big enough and the access in to and out of Farnborough Gate is a nightmare at peak times. I don't believe any amount of changing the access will help. I think they'd be better building on a brownfield site in Farnborough. |
| 12 Saunton Gdns,
Farnborough | Objection : We need this shop but Farnborough Gate is so congested as it is and this popular shop will make it a hundred times worse. The traffic in and out of Farnborough Gate is a complete nightmare whether driving or walking. People driving and cutting in front of each other. Another store will make things worse. It is also difficult to get to for shoppers that do not drive. Please can you place it in the centre of town near local bus routes so all can shop there. |
| 13 St. Michaels
Rd, Farnborough | Objection : This has not been thought through very well, parking is an issue at the moment. Where will the additional car spaces be allocated for the Aldi shoppers? Finally, the Council are aware how congested it is to drive in an out of the Shopping Park: do you really think it will improve once Aldi are on the site? A solution would be to make another entrance or exit to the site which may help traffic flow but that costs money. |
| 8 Kings Glade,
Yateley | Objection: Taking away parking spaces from a retail park in order to put in another supermarket is ridiculous. This side of Farnborough already has other Aldi supermarkets in Sandhurst and Blackwater. If they need another one, may I suggest the other side of Farnborough. This current proposal will only complicate more traffic and it's already hard at times to find parking there. Taking out 17 spaces when someone going into a supermarket to get their full shop could be parked for a long period of time. It will kill Farnborough Gate Retail Park. |

Policy and determining issues

The site is located within, but on the margin of, the defined built-up area of Farnborough. Farnborough Road (A325), the adjoining section of the Guildford-Reading railway line and

the Blackwater Valley Road (A331) are all 'green corridors'. The eastern-most parts of the Shopping Park car park are identified as being at moderate risk of flooding.

Since the Council last considered an application in respect of retail development at this site, the Council has adopted (as of 21 February 2019) the New Rushmoor Local Plan (2014-2032), which has replaced the Rushmoor Core Strategy and saved old Rushmoor Local Plan policies previously comprising constituent parts of the Development Plan for the area. New Local Plan Policies SS1 (Presumption in favour of Sustainable Development, SS2 (Spatial Strategy), LN7 (Retail Impact Assessments), SP1 (Aldershot Town Centre), SP2 (Farnborough Town Centre), SP2.3 (Farnborough Civic Quarter), SP3 (North Camp District Centre), IN2 (Transport), DE1 (Design in the Built Environment), DE10 (Pollution), NE2 (Green infrastructure, including 'Green Corridors'), NE4 (Biodiversity) and NE6-8 (Flooding & Drainage) are relevant.

The 'Farnborough Town Centre' SPD (adopted in July 2007) and the 'Farnborough Prospectus' (published in May 2012) are also relevant to the consideration of the current proposals. These set out more detailed guidance, including site-specific development opportunities. The SPD identifies eight strategic objectives, including encouraging and facilitating the revitalisation of Farnborough Town Centre *"by developing a robust retail core with a broad range of shops and services"* and promoting *"the Town Centre as a shopping and leisure destination"*.

The National Planning Policy Framework (NPPF) and National Planning Policy Guidance (NPPG) are also relevant. The NPPF aims to ensure the vitality of town centres, inter alia, as follows:-

- "86. *Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge-of-centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.*
87. *When considering edge-of-centre and out-of-centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge-of-centre sites are fully explored."*

And:

- "89. *When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m² of gross floorspace). This should include assessment of:*
- a) *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*
 - b) *The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).*
90. *Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in Paragraph 89, it should be refused."*

The Town & Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force on 1st September 2020 and, inter alia, have introduced a new Use Class E (Commercial, Business & Service). The new Use Class E has replaced various existing Use Classes and grouped various commercial uses together so that commercial premises can, generally, be used more flexibly and for a combination of different commercial activities, without the need for planning permission. The New Class E encompasses use, or part use, of premises for all forms of the display or retail sale of goods...principally to visiting members of the public (previously Use Class A1); together with financial and professional services uses (previously Use Class A2); café and restaurant uses (previously Use Class A3; any other services which it is appropriate to provide in a commercial, business or service locality; uses for indoor sport, recreation and fitness; provision of medical health services; and use for purposes that previously fell within Use Class B1 (office, research and development and light industry). Although the introduction of the new Use Class E aims to provide new flexible opportunities for business to use commercial floorspace, including retail floorspace, it is not considered that this directly affects the consideration of the proposals the subject of the current planning application or, indeed, negates the need for planning permission to be obtained from the Council for the current proposals. This is because the principal element of the current proposals is the change in the nature of the retail goods that can be sold from the premises to encompass foodstuffs, however this aspect of the use of the premises is restricted by Condition No.4 of the original planning permission for the Shopping Park.

It is considered that the **main determining issues** in respect of the current proposals relate to the principle of development, specifically including the impact on the revitalisation and regeneration of Farnborough Town Centre; the visual impact of the development upon the character of the area and on adjoining occupiers; air quality; car parking, traffic generation and other highway considerations; flood risk and the water environment; and access for people with disabilities.

Commentary

1. Principle -

Blackwater Shopping Park is an established retail park in an out of centre location. Indeed, it is located at the edge of the Farnborough urban area approximately 2km from Farnborough Town Centre. The application involves proposals for the modification and re-use of 1933 sqm of existing retail floorspace, but with the removal of the existing planning restriction prohibiting sale of foodstuffs to enable the space to be occupied by a discount foodstore of 1866 sqm gross floorspace; and also the change of use of part (186 sqm) of the re-used floorspace to a mixed retail and café/restaurant (A1/A3) use.

The key determining issue of principle is considered to be the impact of the proposals on the revitalisation and regeneration of Farnborough Town Centre. New Local Plan Policy SS2 (Spatial Strategy) outlines a broad spatial framework for the scale and location of development. It states that town centre uses, which includes retail development, “*will be located within Aldershot and Farnborough town centres to support their vitality, viability and regeneration*”; that new retail development “*must protect or enhance the vitality and viability of the town centres, district centre [North Camp] and local neighbourhood facilities*”; and that retail development “*will be focused in Aldershot and Farnborough town centres, within the primary shopping area*”. Policy SS2 also sets out that a sequential approach to site selection will be applied, in accordance with National planning policy, where there are no suitable, available and viable sites within the primary shopping area, which comprises the primary and secondary shopping frontages within the defined town centres.

The New Local Plan also includes individual policies for Farnborough and Aldershot town centres and North Camp District Centre. Policy SP2 (Farnborough Town Centre) aims to *“maintain or enhance the vitality and viability of Farnborough Town Centre”* and to contribute to its revitalisation, whilst Policy SP1 (Aldershot Town Centre) sets out a similar strategy to create *“a thriving, accessible and regenerated Aldershot Town Centre”*. Policy SP3 (North Camp District Centre) states that development proposals *“will be permitted which maintain or enhance the vitality and viability of North Camp District Centre by preserving its local and specialist retail functions and vibrant evening economy”*.

New Local Plan Policy LN7 sets out the Council’s floorspace and proximity thresholds for the undertaking of Retail Impact Assessments:-

“LN7 – Retail Impact Assessments

An impact assessment will be required for retail development not in the primary shopping area and not in accordance with the up-to-date development plan, which is above the following thresholds:

- 1. An assessment of impact on Aldershot and Farnborough town centres and North Camp District Centre for any retail proposal with over 1,000 sqm gross floorspace.*
- 2. An assessment of impact on North Camp District Centre for any retail proposal for over 250 sqm gross floorspace and within one kilometre of the centre.*
- 3. Assessment of impact on a local neighbourhood parade for any retail proposal deemed to have the potential to have a significant adverse impact and within 500 metres of the parade.”*

The applicants have submitted a Planning and Retail Assessment, together with supplementary information in support of their proposals. This builds upon the Assessment submitted with the previous withdrawn application (19/00517/FULPP) and includes analysis of, and objections to, rival proposals for a discount foodstore at Solartron Retail Park (the subject of planning application 20/00287/FULPP) in a sequentially preferable location. Both the proposed BSP foodstore and the smaller proposed mixed A1/A3 use are town centre uses.

Whilst the applicant argues that the proposal *“seeks the reuse of existing retail floorspace rather than the introduction of significant new retail floorspace out of centre”* and, indeed, results in the de-commissioning of the existing mezzanine floorspace, it is considered that the proposal is for a significantly different type of retail use to that which exists at BSP at present. Indeed, it is a form of retailing which is specifically excluded from operating at BSP. In this context, it is considered that the proposed food retail uses cannot reasonably be said to be existing; and cannot be considered as such. Importantly it can be inferred that, in imposing Condition No.4 (of the original planning permission 93/00016/FUL restricting the type of retail use) the Council considered this condition to be necessary in order to make the proposals then under consideration acceptable. The Applicants have sought to explain why the condition is no longer necessary by contending that the retail impact and sequential tests have been passed.

A retail impact assessment is also required because the floorspace affected by the application (1,866 + 186 sqm), whilst below the NPPF threshold (2,500 sqm), is significantly above the locally set impact threshold of 1,000 sqm. Accordingly, having regard to Local Plan Policy LN7, it is necessary for the proposals to be subject to Retail Impact Assessment.

Sequential Test

The applicants have suggested that, because the Council concluded that there were no sequentially preferable sites when the new Halfords retail outlet proposals at the Shopping Park were considered in January 2018, it follows that there are still no sequentially preferable sites available for the current proposed foodstore. This argument is not accepted since the circumstances are not comparable. Whatever position was taken in 2018 is not determinative of all future proposals for retail development at the Retail Park. The retail impact assessment in respect of the Halfords store considered whether or not there was floorspace available or potentially available for a bulky non-food goods retailer in a sequentially preferable location. Having notified all Farnborough Town Centre development stakeholders in respect of the new Halfords store proposals in late 2017, it was clear that none then possessed, or anticipated providing, retail floorspace for a bulky non-food retailer. However, it does not follow that the same situation applies to consideration of a discount food retailer over 3 years later, when new retail schemes have been approved in the town centre. Furthermore, despite the suggestion that they should not have to do so, the applicants' Assessment does actually identify and consider possible sites located in sequentially preferable locations.

The applicants' Assessment adopts a sequential approach to site selection taken from a primary catchment for the proposal covering a zone (Zone 1) including Farnborough Town Centre and North Camp District Centre in Rushmoor; and also the Frimley District Centre located within the adjoining authority of Surrey Heath BC. As advised by the Council during pre-application contact, the applicant has additionally considered sites within Camberley Town Centre, also within Surrey Heath BC's area for completeness, although they are not located within Zone 1. Furthermore, the Assessment excluded consideration of possible sites within Aldershot Town Centre on the basis that this centre serves a different catchment that draws no trade from centres within Zone 1. There are no local neighbourhood parades within Rushmoor within 500 metres of BSP and the Applicants' Assessment considers these to be inappropriate locations for the proposed foodstore in any event.

Overall, the Applicants' Assessment argues that *"there is no sequentially preferable site which is available, suitable and viable that can accommodate the application proposal or a flexible interpretation of it"*. In this respect the Applicants' sequential test identified and assessed nine possible alternative sites for the proposal from within the primary catchment area, seven of which are within Rushmoor. This includes the Units 3 & 4 Solartron Retail Park site the subject of planning application 20/00287/FULPP, which emerged as a pre-application enquiry to the Council late in the consideration of their previous withdrawn application 19/00517/FULPP. Of those sites identified, the Applicants have, in particular, considered the following three possible sequentially preferable sites that were identified by the Council during the consideration of the previous withdrawn application to require closer examination:-

- **Block 3 Kingsmead Square;**
- **South of Queensmead** with the emerging proposals for the Civic Quarter; and
- **Units 3 & 4 Solartron Retail Park**

It is accepted that the remaining six potential sites identified in the Applicants' Assessment are not appropriate alternative sites for a discount foodstore in terms of availability, suitability and viability.

Albeit not located within the Zone 1 catchment, for completeness Members will be aware that a planning application has recently been considered by, and a resolution to grant planning permission subject to the prior completion of a s106 Planning Obligation agreed by the

Council's Development Management Committee, for The Galleries regeneration scheme for part of Aldershot Town Centre (20/00508/FULPP). These are proposals identified as an allocated development site by the adopted New Rushmoor Local Plan (November 2019) for which the planning application was submitted in July 2020. Whilst this scheme proposes the provision of some ground-floor flexible commercial/community use floorspace, none of the 13 proposed units of this space are considered to be large enough, individually or combined, to accommodate a discount foodstore even having regard to flexibility of format. Additionally, none of the proposed units are designed with service bays and would have to be serviced directly from the street, which is considered to be an impractical and, indeed, undesirable, arrangement for a foodstore. Accordingly, it is not considered that The Galleries scheme is a new potential sequentially preferable location for a discount foodstore to be considered by the applicants in the context of justifying their proposals for BSP.

As a result of the objection recently received on behalf of Lidl, it has been suggested that there is a further sequentially preferable site for the applicants to consider at **Units 3 & 4 Horizon Retail Park**. This has not been considered by the applicants to date because it was only recently been identified. As a result of the Lidl objection in this respect, the applicants' agent has responded to assert that:- *"Horizon Retail Park does not present a genuine sequential alternative to BSP."* Nevertheless, this suggested fourth possible sequentially preferable site is also considered further in this report as follows below.

Block 3 Kingsmead Square : Block 3 Kingsmead Square : This was granted planning permission in June 2018 as part of the next phase of the North Queensmead redevelopment scheme and works have started on site this year to implement the approved development. It has been suggested that the ground floor retail floorspace within this scheme could be re-configured for use as a discount foodstore. Furthermore, the retail unit so created would be of comparable floorspace to that proposed at BSP and would benefit from adjacent customer car parking in a busy prominent commercial frontage within Farnborough Town Centre.

The applicants have concluded, and maintain, that this site it is not available, suitable and viable as an alternative to their proposed development despite having regard for the need for flexibility of format and scale. In this respect, it is argued that Sainsbury's has a long leasehold interest in the two adjacent customer car parks such that they effectively 'own' them, although their management must be in line with the Car Park Management Plan (CPMP) set out within the agreed lease. Whilst the CPMP allows for Sainsbury's customers to benefit from two hours parking (which is refunded subject to a minimum purchase within the store), this free parking would not be available to an additional food retailer also trading adjacent to the car park. Given the nature of the proposed retailer (i.e. deep discounter) customer parking charges are not acceptable. The CPMP also sets out a minimum number of car parking spaces and that trolley bays must be provided at a ratio of 1 per 50 car parking spaces. This means that the provision of dedicated trolley bays for a discount foodstore retailer Aldi (or any other compatible retailer) would not be possible as this would result in the loss of car parking. The inability to provide dedicated trolley bay(s) is a fundamental requirement for the proposed operator [Aldi], and other similar retailers. Without such provision, it is asserted that a discount food retailer would not trade from this location.

A further requirement of the CPMP is for all signage to be in Sainsbury's corporate livery. This means that any additional foodstore operator would not be able to have their own corporate signage. Again, such a position would be commercially unacceptable for a discount foodstore operator.

It is also understood that there is a restrictive covenant within the current lease in favour of Sainsbury's, that prevents Kingsmead premises being occupied by retailers that are used

predominantly for the sale of food.

The Applicants also advise that their discussions with the commercial agent dealing with the Block 3 development has indicated that much of the permitted floorspace is, in any event, already under offer. This includes MSU1, which is to be reduced in size to make the residential core larger as approved by the Council with a non-material amendment to the original approved scheme. Unit MSU1 is understood to be under offer from a coffee operator, and the adjacent unit (MSU2) is also understood to be under offer from a restaurant occupier. Consequently, the residual ground floor commercial floorspace within the scheme would be too small and could not now be re-configured or amalgamated to accommodate the proposed discount foodstore development, or a flexible interpretation of it, as may have previously been the case from an inspection of the original approved plans for the Block 3 scheme.

It is further noted that, although notified of the BSP application, the Block 3 developers have not made any comments or raised objections to them on the basis that their forthcoming development would be a suitable sequentially preferable alternative for a discount foodstore retailer. Since the 'base consented' scheme for Block 3 dates back to June 2018, there has now been ample time for any interest in this location to have come to the attention of, and be explored by, discount food retailers, especially as it is well known that discount foodstore operators have been seeking to provide outlets in Farnborough for some time.

It is considered that these observations underline the basic unsuitability of the Block 3 development as a location for a discount foodstore (having regard to considerations of flexibility) and, as such, it is accepted that this is not an alternative sequentially preferable location for the proposed BSP foodstore.

Civic Quarter south of Queensmead : A further potential sequentially preferable site for the location of a foodstore within Farnborough Town Centre identified at the time that the previous withdrawn application was submitted relates to the emerging proposals for the Farnborough 'Civic Quarter'. Here the Council's Regeneration Team had advised that the Rushmoor Development Partnership were considering the possibility of incorporating a foodstore of approximately 20,000sqft [1858 sqm] with dedicated car parking in a location adjacent to the south end of Queensmead. However, this is not a provision mentioned in Local Plan Policy SP2.3 (Farnborough Civic Quarter). Furthermore, the timescales for the delivery of this offer are optimistically indicated to be 4-5 years at the earliest. It is considered that this is too distant to be a reasonable prospect to consider as a sequentially preferable site at the present time. In the circumstances this tentative future proposal is not currently sufficiently well advanced to be considered a viable sequentially preferable site for the purposes of considering the current application.

Units 3 & 4 Solartron Retail Park : Proposals for the amalgamation of these two existing retail units to specifically create a retail space configured for a discount foodstore retailer emerged at a relatively late stage in the Council's consideration of the previous withdrawn application for the proposed foodstore at BSP, 19/00517/FULPP. Being within the defined boundary of Farnborough Town Centre, SRP is clearly in a sequentially preferable location compared to BSP. It is not within the primary retail frontage, but is within 300 metres of it and, therefore, comprises an **edge of centre site**. Nonetheless it is self-evidently sequentially preferable to the application site, which is out of centre and with no real prospect of customers being able to link to the town centre.

The Units 3 & 4 SRP site had not previously been considered as a potential sequentially preferable alternative site in connection with the BSP scheme because it did not exist as a

prospect when the original retail impact assessment work was undertaken. Indeed, the possibility of a site being available at SRP was, in making their previous application, rejected by the BSP applicants on the basis that the two known vacant units there (Unit 3 : the former Bathstore; and Unit 7 : the former Maplins store) both have insufficient floorspace for the proposed foodstore and, indeed, do not adjoin each other to make an amalgamation of floorspace possible. The change in circumstances for SRP as a potential alternative site arose because the current occupiers of Unit 4 (Carpetright) have more recently agreed to re-locate into the vacant Unit 7, thereby making an amalgamation of floorspace of Units 3 and 4 for a discount foodstore of a comparable size to that under consideration physically possible.

With the current application, the applicants updated their retail impact analysis to take account of the SRP proposals in order for their assessment to properly address current Government guidance and adopted Development Plan policies. Similarly, they also lodged detailed objections against the SRP proposals the under consideration by the Council on the grounds that they considered the SRP proposals to be undeliverable, unsuitable for any discount foodstore retailer and, fundamentally prejudicial to their own proposals for a foodstore at BSP. As a rival scheme potentially competing for the same discount foodstore tenant, the owners of SRP have lodged counter-objections against the BSP proposals noting that SRP is in a sequentially preferable location because it is located within the town centre area for retail planning policy purposes. They have also responded to the other objections raised by BSP.

Members will recall that the planning application in respect of the Solartron Retail Park proposals (20/00287/FULPP) was considered at the 24 June 2020 meeting of the Council's Development Management Committee. Despite the objections raised on behalf of BSP, it was resolved that planning permission be granted subject to the completion of a s106 Deed of Variation and a s106 Planning Obligation to secure Travel Plan evaluation and monitoring contributions. This planning permission was subsequently granted on 4 September 2020 following the completion of the required legal documents.

As a result of a letter received by the Council in support of the SRP proposals submitted shortly before, and reported to, the 24 June 2020 Committee meeting, Lidl revealed their support for the SRP proposals and the suitability of the floorspace and site arrangements to meet their needs. Lidl also clearly confirmed that they had board agreement to occupy the proposed SRP unit. Indeed, Lidl stated that *"Should planning consent be granted this week Lidl are fully committed in partnership with the applicants to deliver this town centre retail scheme at the earliest opportunity."* Nevertheless, in re-affirming their objections to the BSP proposals, a more recent statement made by Legal & General's agents on 20 July 2020 has clarified that *"the owner of the Retail Park has agreed 'Heads of Terms' with Lidl but as yet, a formal Agreement for Lease is not in place."* Furthermore: *"Until there is certainty that a tenant has been signed then the unit [at SRP] is 'available'"* More recently, on 17 September 2020 agents acting for Legal & General noted that: *"The position is unchanged in that there is no formal agreement signed with a specific tenant for the unit"*.

The Council has commissioned independent retail planning advice from Lichfields, who have already advised the Council in connection with the previous withdrawn BSP proposals (19/00517/FULPP). Advice was specifically sought to consider the retail planning implications of the BSP proposals in the light of the Council, at that time, recently resolving to grant planning permission for a discount foodstore at SRP. The conclusions of the resulting Lichfields advice in respect of the Sequential Test are as follows:-

"4.9 Potential sequentially preferable sites within or on the edge of Farnborough, Camberley, Frimley and North Camp town centres should be considered. Other centres would not serve

the same catchment area as the application proposals.

4.10 The small food and beverage unit proposed could in theory be accommodated within a town centre. However, a unit of this size would primarily serve existing customers at BSP, as an ancillary use and could be considered to have a locational specific need at BSP, and therefore only the discount food store should be considered when applying the sequential test.

4.11 At this stage, the proposed store at SRP appears to be available to any discount food operator within a similar timeframe. There is no reason why SRP would not be a cost efficient location for a discount food store in Farnborough. The servicing, parking, congestion and other highways matters were considered acceptable when the SRP application was assessed.

4.12 The SRP ground floor plans indicate the proposed unit is not too small to meet Aldi's space requirement, nor does it provide an irregular or constrained internal layout. The configuration of the two proposed stores at BSP and SRP do not appear to be significantly different. Furthermore, the SRP opportunity's ability to accommodate a discount food store in general should be considered, rather than specifically an Aldi store. If there is scope for only one new discount food store in Farnborough then this need can be met by either Aldi or Lidl, and this store should be located at SRP if the opportunity is available and suitable.

4.13 If the SRP opportunity is considered to be available and suitable then it should be given the best chance of being implemented and occupied before a similar proposal at BSP is approved.

4.14 Based on the information provided the SRP opportunity appears to be suitable and available. The NPPF (paragraph 90) states that where an application fails the sequential test it should be refused."

As a result of the granting of planning permission for the SRP scheme, the Council clearly accepts that this scheme is in a sequentially preferable location; and it is considered that Lidl's stated interest in occupying this proposed foodstore unit is clear evidence that it is suitable for a discount foodstore operation and can be implemented within a reasonable period of time, notwithstanding the continuing BSP objections in these respects. Whilst the proposed approved SRP unit is marginally smaller than the proposed development, it is, nonetheless, of a broadly similar scale such that it is comparable to the application proposals mindful of the requirement upon an applicant to demonstrate 'flexibility'. In the context of the sequential test as set out in the NPPF and adopted Rushmoor Local Plan policy this leaves the question of whether or not the SRP unit is 'available'.

The applicants' have responded to the Council's decision to grant planning permission for the SRP discount foodstore scheme and the earlier announcement by Lidl that they were interested in occupying the SRP unit by letters on 6 August, 1 October and 17 December 2020 seeking to address the implications for their clients proposals for BSP. In respect of the sequential test, they argue and reiterate that, given Lidl's stated interest in occupying the SRP unit, this means that it is not 'available' to any other potential discount foodstore retailer; and that it would be unreasonable and perverse for the Council to disregard, and not take at face-value, the clear statement made by Lidl in connection with the SRP scheme. In this respect, the Applicants argue that the SRP foodstore unit cannot be considered to be 'available' within the usual everyday meaning of that word. They cite the High Court case *Sainsburys Supermarkets Limited v. the London Borough of Hillingdon EWHC 2571* as re-affirmed by more recent High Court decisions, including *Asda v. Leeds City Council [2019]*

EWHC 3578, in support of their position on this point.

On the meaning of the word 'available' in the context of the sequential test, the Lidl objection cites a different High Court case *Aldersgate Properties Ltd. v. Mansfield District Council and ANOR* [2016] EWHC 1610; and the subsequent cases of *Tesco Stores Ltd. v Dundee City Council* [2012] UKSC 13 and *Mid-Counties Co-operative Ltd. v. Forest of Dean DC* [2017] EWHC 2056. It is argued by Lidl that these cases represent the current unchallenged legal interpretation of 'availability' in the context of retail sites being considered in respect of the sequential test. In fact in the Hillingdon case cited by the applicants, the Judge made it clear that "available" is to be given its ordinary meaning and that it was a matter of judgment on the facts of each case whether or not a site was indeed available. The Judge observed at paragraph 44:-

"The debate which occurred during the course of argument about the meaning of "available" generated, in my view, far more heat than light. Ultimately, "available" is a simple English word whose meaning does not require any further qualification or explanation, and its application will require fact-sensitive judgment in each case."

Notwithstanding the recent further comments made on behalf of the applicants, the Mansfield Case is clear that, in applying the sequential test, the fact that another retailer may already own a site does not make it 'unavailable' for the purposes of the sequential test. The unit in question remains 'available' for retail use irrespective of whether or not any individual retailer is unable to acquire and use the premises because the property is owned or under offer to another retailer. It should be applied on a 'retailer blind' basis. Accordingly, whether or not Lidl have legally secured the SRP foodstore unit (the argument asserted by the current applicants) is not material : to conclude otherwise would be to give rise to a different outcome had the applicant in this case been Lidl. What matters is whether that alternative site has passed the point when it is realistically not available to **any retailer**, i.e. the point at which the proposed SRP foodstore unit ceases to be available will be when a retailer has implemented the planning permission and occupied the unit. Since this has clearly not yet happened, the proposed SRP foodstore unit therefore remains 'available' for the purposes of the sequential test to be applied to the proposed BSP foodstore.

The Council has obtained legal advice that confirms that the position set out by the Mansfield Case is determinative of the question of the 'availability' of retail sites to be applied with the sequential test. The SRP unit remains 'available' for retail use on a retailer blind basis as an alternative sequentially preferable location for the proposed retail use the subject of the current application. In the circumstances, at the present time, it has to be concluded that the proposed SRP foodstore remains a suitable, available and viable alternative sequentially preferable site for a discount foodstore and, as such, the BSP proposals fail the sequential test. Consequently, in accordance with the advice at Para.90 of the NPPF it is considered that there is no option but to recommend that planning permission be refused on sequential test grounds.

Units 3 & 4 Horizon Retail Park : In this respect, Lidl raises a further matter in respect of the sequential test in support of their objections to the BSP proposals. There are no current proposals for the amalgamation of these adjoining bulky-good retail units, which are currently occupied by Oak Furniture Land and Harveys respectively. They are located within the town centre area of Farnborough as identified by the adopted Rushmoor Local Plan. Indeed, they are located closer to the town centre core than the SRP site. The site has not been considered by the Applicants because it was not identified as a prospect until raised very recently by Lidl in their objections.

Lidl has identified these units as a further potential sequentially preferable site to the proposed BSP foodstore on the basis of their advice to the Council that they were recently contacted by a property agent (Avison Young) asking whether Lidl would be interested in taking on these units if they were to be amalgamated, since this would create a unit of similar size (1,783 sqm) to the SRP unit. Lidl have explained that the continued occupation of the units by the existing tenants is considered to be 'uncertain'. The Harveys unit is currently indicated to be 'available' on another commercial property agent's web-site : Completely Retail. Both of the existing tenant retailers have entered into CVAs (Company Voluntary Arrangements, often also known as 'Pre-Pack Administration' deals) to avoid insolvency this year. Oak Furniture Land entered into a CVA in June 2016 that is reported to have attracted significant new investment into the business and has enabled all of its existing retail outlets nationwide to continue trading and, indeed, to re-open during the summer following the lifting of the first Covid-19 lockdown. Harveys is also reported to have entered into a CVA during the summer and also continues to trade at Unit 4 Horizon Retail Park.

The applicants have offered no analysis or consideration of the Horizon Retail Park units, other than to say that they consider that it is not a genuine 'site' to be considered. Nevertheless, at this stage it is considered that it is too early to know whether or not this is a suitable and available sequentially preferable site for a discount foodstore within the town centre that could be provided within a reasonable period of time and, as such, should be favoured over the proposed BSP foodstore site. Planning permission would be required in order to allow sale of foodstuffs through the relaxation of a planning condition imposed by the planning permission relating to the units that currently restricts the use to bulky non-food goods retailing only : currently Condition No.21 of planning permission 17/00174/REVPP. The outcome of any planning application seeking to relax the terms of this condition is uncertain. Furthermore, it is not clear whether the existing servicing arrangements would be suitable for a foodstore operation with or without modifications; or, indeed, what other alterations would need to be undertaken to Horizon Retail Park to facilitate the introduction of a discount foodstore. Nevertheless, at the present time it is potentially a change in circumstances to be given consideration in respect of the application of the sequential test for the current application. The applicants must consider and demonstrate conclusively that this further suggested prospective retail site would not be suitable and available within a reasonable time period as a sequentially preferable alternative to the proposed BSP foodstore. In the current absence of such examination by the applicants it is therefore considered that the sequential test is also failed in this respect.

Whilst no other site(s) have been identified as possible sequentially preferable alternatives to the proposed BSP discount foodstore at the present time, given that the circumstances within which Units 3 & 4 Horizon Retail Park have been suggested to be available has arisen due to the significant decline in retail activity caused by Covid-19 lockdown, it is considered conceivable that such sites could arise in the very near future.

Retail Impact

In this respect, the policy test is to determine whether the current proposal would have a significant adverse impact on in-centre investment (that is investment within the primary shopping area) and the overall vitality and viability of any defined centre. In so doing, it is now necessary to take account of the Council's recent granting of planning permission for the SRP scheme – indeed, whether or not there would now be cumulative impacts arising from the Council also permitting the proposed discount foodstore at BSP. The cumulative impact of two discount foodstores is considered to be a material consideration for the determination of the current application. It is considered that the key questions for the Council to consider in respect of the current application are therefore:-

- (a) Would the BSP discount foodstore proposal be likely to have any significant adverse impact upon the viability (and thereby deliverability) of the approved town centre SRP discount foodstore scheme? Could the proposed BSP foodstore jeopardise the implementation of the proposed SRP foodstore?
- (b) Would the BSP discount foodstore combined with the approved SRP discount foodstore cumulate significant adverse impact through diversion of convenience goods turnover from the existing established Town Centre foodstores (predominantly Asda and Sainsburys)? And
- (c) Would the BSP discount foodstore proposal have any other significant adverse impacts upon the vitality and viability of any defined centre?

The conclusions of the Council's further Lichfields advice in terms of retail impact in these respects are as follows:-

“4.1 Quod argues there is no policy requirement to assess cumulative impact, in this case the implementation of two discount food stores in Farnborough. However, cumulative impact is a relevant material consideration that the decision-taker may take account and attach weight to.

4.2 In terms of retail impact, the key concern is the impact of the convenience goods (food and grocery) sales within the proposed discount food stores. Farnborough town centre is expected to be the most affected centre.

4.3 Lichfields review of Quod's assessment suggests cumulative trade diversion and impact on Farnborough town centre has only been marginally under-estimated. Quod's figures suggest an impact of -8.2%, whilst Lichfields' sensitivity analysis suggests a cumulative impact of -9.4%.

4.4 Most of the cumulative trade diversion will come from the Asda and Sainsbury's stores, but these stores will continue to trade within the range stores can trade viably, and we would not expect the Asda or Sainsbury's stores to close. The reduction in turnover of the remainder of convenience goods outlets in the town centre is unlikely to cause small convenience shops to close and would not result in a significant adverse impact in terms of the loss of customer choice or the increase in the shop vacancy rate.

4.5 The two proposed discount food stores are expected to marginally increase the comparison goods turnover of the town centre because the proposals will result in a net reduction in the comparison goods turnover of BSP and SRP. The combined (direct and indirect) comparison goods impact are not expected to be significant.

4.6 The impact on planned investment within the town centre needs to be considered. Quod disputes the SRP scheme is 'in-centre' investment. However, SRP is within the Farnborough town centre boundary and, as covered by Policy SP2, is planned investment within a designated town centre. The impact on this planned investment is a material consideration.

4.7 The key issue is whether Lidl considers that a new store at SRP would trade at an appropriate and viable level with the added competition from the Aldi store at BSP. The retail capacity figures suggest there is a convenience goods expenditure deficit in Farnborough, which will increase with the implementation of two new stores by 2024. It is possible Lidl may decide not to occupy the proposed store at SRP if Aldi implements their proposals at BSP, but this is difficult to quantify.

4.8 Even if Lidl were to withdraw from the SRP scheme, then the significance of this impact on the vitality and viability of the town centre needs to be considered. In terms of consumer choice, the town centre would still retain its existing choice of food stores and in our view, it would be difficult to demonstrate Lidl's withdrawal from the SRP scheme would cause significant adverse harm to the vitality and viability of the town centre as a whole. However, if Lidl has no interest in the SRP scheme then the opportunity clearly becomes available to Aldi, which is a sequential test issue."

The applicants' agents responded to the Lichfields advice in respect of retail impact issues to argue that the Lichfields further critique is too narrowly focussed and that, in reality, there is sufficient capacity in terms of projections of retail expenditure for food for both the BSP and SRP discount foodstores and without impacting significantly upon other town centre foodstores. Indeed, the spare capacity for foodstore expenditure is argued to be the reason why both Aldi and Lidl are targeting the area for new investment. It is argued that the evidence for potential harm to town centre retail investment arising from the BSP scheme identified by the Lichfields advice to the Council is not compelling and does not appear to demonstrate sufficient material harm to justify the refusal of planning permission on retail impact grounds. The evidence that has been provided and obtained by the Council indicates that the impact in terms of trade diversion (9.4%) is not significant; and existing town centre foodstores would continue to trade within the range they can trade viably. It is also noted that the proposals would marginally increase town centre turnover in durable (i.e. non-food) goods due to the reduction in the extent of durable retail floorspace at BSP as a result of the proposals. In terms of the potential impact upon the planned investment in a new discount foodstore at SRP, Quod assert that there is no evidence demonstrating that the proposed SRP unit would be so significantly impacted by the BSP scheme that the SRP would not proceed – indeed, the evidence that Lidl are in the process of acquiring a lease on the SRP foodstore unit is considered to indicate otherwise.

However, the opposing position asserted by Lidl with their objections to the BSP foodstore scheme is that granting planning permission for the BSP scheme, thereby enabling Aldi to locate at BSP, may well prejudice the implementation of the permission for the foodstore unit at SRP – which is planned investment within Farnborough Town Centre. This is on the basis that the applicants' agents for the BSP scheme themselves argue that the BSP scheme is likely to be implemented (and thereby Aldi would commence trading and become established) before Lidl would be able to do so at SRP. Lidl support this argument on the basis of the need for Carpetright to re-locate from Unit 4 to Unit 7 SRP before works can begin on the new foodstore unit; and because substantial works still need to be undertaken at SRP to create the new foodstore unit. Accordingly, Lidl argues that the improvements to the retail offer of the Town Centre that would accrue from the implementation of the SRP unit would be likely to be lost, to the detriment of the vitality and viability of the Town Centre.

Whilst existing under-trading at Sainsburys and Asda would be exacerbated by the existence of two discount foodstores in Farnborough, this negative impact is not considered to be to the extent that these existing stores would be lost. Nevertheless, notwithstanding the applicants' suggestions otherwise, the Lichfields advice to the Council is that there is insufficient estimated market capacity in terms of customer convenience retail expenditure to support the introduction of two discount foodstores; i.e. at both SRP and BSP. The positions adopted by the applicants and Lidl in respect of retail impact issues are unsurprisingly polar opposites in these circumstances : both are competing to be the one discount foodstore that can be supported within Farnborough. Nevertheless, the SRP foodstore is already approved and is clearly in the sequentially preferable location, being situated within the defined Farnborough Town Centre area. BSP is, by contrast, an edge of town site and, as such, not the favoured location according to established planning policy. Lidl has provided a very clear statement

with reasons explaining why they would reconsider the viability of their intended investment in the SRP foodstore unit should the proposed BSP foodstore unit be approved. The SRP foodstore permission constitutes planned investment in the town centre and the possibility of the implementation of that consent being frustrated through development on a competing out-of-centre site is not what is envisaged by current national and local planning policies : indeed, the intention is that this be resisted. As such, it is considered that the proposed BSP foodstore would have a material and adverse retail planning impact. Whilst the applicants have garnered some support for their proposals for a foodstore at BSP Government and local planning policy favours town centre retail development over out of centre locations. On this basis, particularly given the current uncertainties in economic conditions, it is considered that the SRP foodstore scheme should be given the best chance of being implemented. In the current circumstances this means that planning permission be refused for the BSP proposals on retail impact grounds.

2. Visual Impact -

It is considered that the proposals would have limited and localised visual impact. The proposals seek to re-use floorspace to provide a new retail foodstore and a mixed A1/A3 outlet within an existing substantial building and retail park containing existing retail outlets. The physical changes to the existing building are the provision of some new shopfronts and provision of trolley storage/dispensing bays to the front; and provision of a recessed lorry unloading dock to the rear of the building. None of these features are considered to be unusual or inappropriate in the visual context of the Shopping Park. The proposed alterations to the vehicular access to the Shopping Park would result in minimal loss of some adjoining landscape planting. It is considered that the proposals would have no material and harmful visual impact.

3. Impact on Neighbours -

The immediate neighbours to the proposals are the commercial occupiers of the retail outlets, the Costa coffee shop and the drive through McDonalds within the Shopping Park. There will be an impact in relation to the proposed widening of the Shopping Park's vehicular access, but this is not considered likely to be negative, since it is intended to ease traffic movements leaving the Shopping Park.

The introduction of the proposed Aldi foodstore is expected to attract additional customers to the Shopping Park and, as such, potentially also visiting the existing retail outlets, which could be viewed as a benefit of the proposals. Nevertheless, in addition to the potential for vehicle congestion within the car park, there would also be other management issues for the Shopping Park management relating to the servicing requirements of a foodstore, the nature and volume of refuse and recyclables requiring disposal and the management of shopping trolleys.

Noise emanating from the service bay and the adjoining air-conditioning and cooling plant for the proposed foodstore has the potential to cause nuisance to neighbours. Whilst there is already servicing activity and the operation of various externally located plant associated with the existing retail outlets, the proposed foodstore would be expected to have more frequent lorry deliveries and refuse collections. Furthermore, air-conditioning and chiller plant would be more numerous and may need to be operated around the clock. The applicant's submitted Noise Assessment report focusses on the noise impacts of lorry deliveries and unloading of full freight cages and the loading of empty cages. In this respect it is noted that the proposed foodstore would need to receive deliveries on Sundays, in the evening and early in the morning to ensure that fresh food is on the shelves whilst the foodstore is open.

The current permitted delivery hours for the Shopping Park are 0700-1900 hours Mondays to Saturdays with no deliveries allowed on Sundays and Bank Holidays. It is, therefore proposed that permitted delivery hours for the foodstore be extended to 0600 to 2300 hours Monday to Saturday (including Bank Holidays) and 0700 to 2000 hours on Sundays. The submitted Noise Assessment considers the impact of these proposed additional delivery times and recommends that, notwithstanding the nearest residential properties (in Ringwood Road) being approximately 95 metres distant on the far side of the adjoining motor vehicle repair works, it would be appropriate to replace the existing mesh boundary fence on the Shopping Park boundary with a 2 metre high acoustic fence.

The Council's Environmental Heath Team consider that, without suitable mitigation, there would be likely to be some adverse noise impact to some Ringwood Road residents on Sunday mornings : those properties that are not shielded by the large motor vehicle repair workshop building. However, the recommended acoustic fence would, provided it is of suitable construction and long enough, adequately mitigate noise at these residential properties to a level that should not cause undue disturbance. This is also provided that delivery vehicle refrigeration plant is switched-off during deliveries and general best practice in terms of noise control is employed. It is considered that the proposed acoustic fence would also have the added benefit of minimising noise from other activities on site not related to the application site i.e. commercial waste collection noise that is not considered by the submitted Noise Assessment report. It is additionally considered that it would be possible to install acoustic screening for any external plant. Subject to an appropriately-worded condition in respect of means and measures of noise suppression and prevention (including the installation and retention at all times of the proposed acoustic fence) it is considered that the proposed extended servicing hours for the proposed foodstore would have an acceptable impact on the nearest residential neighbours.

Although there are other nearby residential properties at Lancaster Way and on Farnborough Road north of the Shopping Park and the link-road, these are located further away from the likely noise sources arising from the current proposals. As such, it is not considered that any material and adverse noise nuisance impacts would arise in respect of these properties.

In the circumstances, it is considered that noise emissions from the site could be adequately controlled to prevent any undue noise nuisance affecting nearby residential properties.

4. Air Quality –

The Government has identified the A331 as being non-compliant with the statutory annual mean EU limit value for Nitrogen Dioxide [The UK Plan for tackling roadside nitrogen dioxide concentrations (2017)]. Rushmoor, along with Surrey Heath Borough Council, and Hampshire and Surrey County Councils, have been served with a Ministerial Direction to develop and implement measures to bring about compliance in the shortest possible time. The Blackwater Valley's Local Air Quality Plan was approved by the Secretary of State earlier this year, and in June the speed limit between a point just south of the Coleford Bridge Junction and the Frimley Road junction was reduced from 70 mph to 50 mph. In addition, improvements to the Bradfords (Hawley) roundabout are planned that aim to reduce congestion and queuing for northbound vehicles exiting the A331, thereby improving flows from the A331 onto the local highway network. With these measures in place, it has been shown that compliance with the annual mean NO₂ EU limit value along the A331 will be achieved by 2021.

With respect to the current planning application, the question that arises is whether or not the proposals would undermine or prevent achievement of the air quality improvement objective

as a result of the anticipated additional traffic generation on roads in the vicinity, including the A331 and A325 Farnborough Road in the vicinity of the Bradford's (Hawley) Roundabout. The margins are very small. The concern is that any significant increases in traffic in these locations could negate any reduction in emissions that measures within the Air Quality Local Plan are designed to bring about. Environmental Health are currently monitoring and evaluating the effectiveness of the measures introduced and are required to regularly report on progress in achieving compliance to Defra and DfT's Joint Air Quality Unit. Given the importance the Government has placed in meeting its air quality responsibilities, it is vital to demonstrate that emissions that may arise as a result of any new development would not impede achieving compliance.

The Council's Environmental Health Team consider that sufficient detail has been provided in the submitted Air Quality Assessment (AQA) to assess the impact of the proposed development on measures being implemented to improve air quality along the A331. The submitted AQA has considered air quality in 2020 at a number of receptor locations, with and without the development in place. Four of these receptor locations are along the A331 and, as such, are relevant to considering impact upon the Bradford's (Hawley) Roundabout improvement works that were specifically funded with the aim of improving air quality along the A331. The AQA report has used trip traffic data from the applicant's Transport Assessment, which states that the development is expected to generate an additional 247 AADT (Additional Average Daily Traffic) movements when compared with the existing use of the site. Environmental Health advise that traffic movements would need to be at least 4-5 times higher than this figure to begin to have any adverse impact on air quality by the measure adopted by the Government. Accordingly, based on the provided data, the submitted AQA report concludes that there would be negligible impact on air quality along the A331 the subject of the ministerial direction as a result of the proposed development.

Environmental Health accept the conclusions of the applicants AQA report and raise no objections to the proposals on air quality grounds.

5. Highway Considerations -

Blackwater Shopping Park is located adjoining busy road junctions that are prone to traffic congestion : the Bradford's (Hawley) Roundabout on Farnborough Road (A325) and the A331 Blackwater Valley Relief Road approximately 800 metres south of Junction 4 of the M3 motorway. All of these routes are major strategic road links used by both through-traffic, but also by significant local traffic daily, both on workdays and at weekends. The Shopping Park has a single vehicular access onto the link-road connecting Farnborough Road and the A331 serving all customer, staff and delivery vehicle traffic in and out of the Park. This includes significant traffic frequenting the McDonalds restaurant and drive-through and Costa Coffee. The Shopping Park has in excess of 14,000 sqm of floorspace and a car park containing 547 customer parking spaces : it is a busy well-frequented place. The interaction between traffic approaching and departing the Shopping Park with traffic using the surrounding roads clearly has the potential to impact significantly upon traffic congestion on the important strategic road intersections in the vicinity.

The Shopping Park vehicular junction with the link-road has limited functionality : it is not an "all ways" junction. Vehicles seeking to enter the Shopping Park must do so by filtering and/or turning left from the west-bound side of the link-road from the A331 junction, in doing so receiving traffic from both the north- and south-bound sides of the A331, but also from Frimley to the east and Farnborough and beyond via the Bradford's (Hawley) roundabout to the west. Vehicles leaving the Park must turn left onto the west-bound side of the link-road to approach the Bradford's (Hawley) Roundabout with the option of then turning left, going

straight ahead into Hawley Lane (B3272), turning right or turning completely around to travel back along the link-road towards the A331. Vehicles entering or leaving the Shopping Park will often have to change traffic lanes in potential conflict with other traffic. Traffic movements associated with the vicinity of the Shopping Park are, therefore, busy and complex; with opportunities for impacts upon traffic flow through conflicting vehicle movements, queuing and congestion.

It is clear Government guidance that denying planning permissions on highways grounds is only justified and appropriate where it is demonstrated to give rise to 'severe' harm to the safety and/or convenience of highway users. As a consequence, refusal on highway grounds is required to exceed a high threshold. In this case it can be argued that weekend impacts are less severe than on weekdays due to the reduced impact that any highways issues would have upon people seeking to get to and from work and, by extension, the consequential impact upon business costs to the economy.

The proposed Aldi foodstore is expected to attract a significant additional quantum of customers to the Shopping Park, either simply to use the foodstore, but also by attracting and encouraging an amount of linked shopping trips to benefit other retailers within the Park. The submitted Transport Assessment considers that the proposed Aldi foodstore would generate an additional 247 AADT (Additional Average Daily Traffic) movements compared with the existing use of the site, covering both McDonalds and the remainder of the Shopping Park. Although the applicants note that the Shopping Park is accessible by a range of different modes of transport, the predominate mode of traffic used to travel to and from the site is by private car. Servicing of the Shopping Park is also entirely by road transport using the same sole vehicular access point. The proposals therefore have the capacity to cause highway safety and convenience impacts. Accordingly a key consideration for the Council in determining this planning application is to determine the likely extent of additional traffic that might be attracted to the Shopping Park (both customers and delivery vehicles); and whether or not this would be likely to exacerbate any existing highway safety and convenience impacts upon adjoining and nearby public highways to the extent that this amounts to severe harmful impact. The parking provision available within the site is also a factor in terms of highway safety and convenience impact since inadequate on-site parking provision could give rise to queues both entering and leaving the site if demand for parking spaces exceeds the number of parking spaces that are available for use at any one time.

The various elements of the proposals conceivably impacting upon highways issues in this location and, indeed, issues raised by objectors, are considered in the following paragraphs:-

Proposed Vehicular Access Improvement : It is proposed that the outbound portion of the Shopping Park vehicular access be modified to become of two-lane width along its entire length. This involves only a minor re-alignment of the adjoining pedestrian pavement and loss of landscaping adjacent. At present the outbound access is partially two-lane, but narrows slightly for a short section. It is considered, and Hampshire County Council Highways agree, that this element of the proposals would enable more efficient flow of traffic leaving the Shopping Park. This element of the proposals is considered acceptable in highway terms and to be welcomed.

Parking : As existing, the Shopping Park has 547 customer parking spaces to serve a total floorspace of 16,015 sqm including the new Halfords unit; an existing overall parking ratio of 1 space/29 sqm of floorspace. This ratio of parking falls below the Council's current adopted maximum Parking Standard for general and non-food retail, (which is the predominate use of the existing floorspace) and is 1 space/20 sqm, but is, nevertheless, the current lawful quantum of parking provision of the Shopping Park. This reflects the addition of significant

additional floorspace into the Shopping Park since it was originally permitted in 1994, plus losses on parking spaces arising from the new Halfords unit and the alterations to the car park to improve vehicle circulation. The Shopping Park was originally permitted with 10,330 sqm and 652 parking spaces and, as such, had an overall parking:floorspace ratio of 1 space/15 sqm initially.

The current proposed development would result in the loss of 17 existing parking spaces to provide space for the Aldi foodstore trolley bays, comprising the loss of 10 staff parking spaces in the service yard and 7 customer parking spaces. The overall complement of customer parking spaces would be reduced to 540 spaces. But the proposals would also result in the loss of 1532 sqm of existing mezzanine retail floorspace, such that the resultant overall parking ratio would marginally improve to 1 space/27 sqm of floorspace. As a consequence, it is not considered that the physical aspects of the proposals would have any material and harmful impact upon the level of parking provision within the Shopping Park.

Notwithstanding the additional parking demand implied by the Council's adopted Parking Standard of 1 space/14 sqm required for a foodstore, this is not a facsimile for parking usage, rather an estimate used to assess whether planning permission should be granted for a development with a certain proposed floorspace and quantum of parking spaces provided. However, this does not necessarily reflect the level of actual parking usage that would occur. In such instances it is usual for parking surveys to be undertaken to establish how actual usage of the car park compares with the parking standards and, as such, to establish the extent of actual spare capacity within the car park, from which to consider whether parking provision would be adequate with the introduction of the proposed new foodstore retail use.

The applicants have undertaken parking surveys at the Shopping Park, initially in support of their previous withdrawn planning application 19/00517/FULPP, but also following the submission of the current application. A Technical Note submitted to the Council by the applicants on 4 May 2020 summarised the overall findings of the parking surveys as follows:-

"The car park survey information shows that the peak occupancy in January occurred on Saturday 4th January 2020 when 522 vehicles were within the Shopping Park between 15:00-16:00. There were only two other hours in the month when parking demand exceeded 500 spaces. On normal weekdays (not including bank holidays), the parking demand within the Park never exceeded 400 spaces throughout January.

Throughout February 2020, there were only three hours when the parking demand exceeded 500 spaces. Two of these hours occurred on Sunday 29th February 2020, and it is likely that the parking levels reflected increased buying patterns in response to the COVID-19 pandemic. There was one hour on Sunday 2nd February 2020 when the parking levels reached 513 spaces. On weekdays throughout February the parking demand did not exceed 400 spaces on any occasion.

Throughout January and February the car park operated well within capacity at all times, and the peak weekday demand never exceeded 400 spaces on any occasion."

The parking surveys indicate that usage of the car parking has generally, at most times, fallen well below the total number of customer parking spaces that are available for use (547 currently, and 540 spaces as proposed), although at peak times lasting for perhaps a few hours on some weekends that may have been exceptional circumstances, the usage of parking spaces within the Shopping Park may have been close to effective full capacity. This is the pattern of car park usage that has been observed, particularly during various visits to the Shopping Park over the last year during the consideration of the current and previous

withdrawn applications, and may also be familiar to Members if they have visited the Shopping Park.

The applicants have agreed a suitably robust methodology with Hampshire County Council Highways for the calculation of predicted changes in parking demand considered likely to arise as a result of the proposed discount foodstore, which includes assumptions concerning the likely additional traffic that may be attracted to the site, peak shopping times at foodstores and the likely dwell times for foodstore shoppers. The applicants' therefore predict that the peak weekday parking demand within the Shopping Park (on a Friday, as it is usually the peak weekday foodstore shopping day) could increase by up to 60 vehicles. However, the parking surveys of existing parking usage demonstrate that the typical weekday parking demand currently never exceeds 400 spaces, such that there should normally be spare parking capacity retained within the Shopping Park at any time on weekdays of some 80 spaces (540-460). It is considered that this is sufficient margin that the weekday operation of the proposed foodstore would not be likely to result in parking demand exceeding what is available.

The applicants have also considered the impact of the proposed development on a Saturday, being the peak weekend day for parking demand. In this respect, given the increased likelihood of linked shopping trips then, the applicants predict the maximum increase in parking demand at weekends to be 20 vehicles in the morning period and 10 vehicles in the afternoon period. It is argued that, since the parking survey results demonstrate that the existing peaks in parking demand occur in the afternoon, the additional vehicle parking demand in both the morning and afternoon periods would not be likely to result in the existing capacity of the Shopping Park being exceeded at any time. Whilst this analysis does not take account of more occasional and exceptional peaks in parking demand that have been observed, it is considered that these events are relatively infrequent and, as such, cannot be considered to amount to a severe on-going impact through potential queuing in and out of the Shopping Park that would justify and sustain a highways reason for refusal.

Changes to the access, circulation and management arrangements for the car park approved with the new Halfords unit planning permission and subsequently implemented are intended to encourage use of parking spaces to be spread more evenly across the whole extent of the car park, rather than being concentrated in those sections nearest the retail outlets. However, a possible negative consequence of this change is that any available parking spaces are spread across the whole car park and, at busy times, they can be more difficult for people to find and utilise. Poor or inconsiderate parking can also result in a proportion of empty parking spaces being unusable by all but the smallest cars or more skilful/determined drivers. Vehicles manoeuvring into or out of tight parking spaces can be seen to hold up traffic seeking to move around the car park, sometimes resulting in the creation of some queues within the car park. The additional sections of roadway within the car park area introduced with the new Halfords unit parking area amendments increase the capacity of the Shopping Park to accommodate queuing on site and, thereby, reduce the likelihood of significant queuing on the adjoining public roads. Whilst queuing on site is certainly inconvenient for customers and a problem for the Shopping Park management and retailers, it is not, in itself, dangerous when confined within the Shopping Park.

Shopping trolleys are not used within the Shopping Park in any significant numbers as existing, yet they are a specific and essential requirement for a foodstore. Empty trolleys can compromise parking provision if discarded carelessly away from designated trolley storage bays. However, it is possible that trolleys can be fitted with coin/token redemption devices to ensure most trolleys are returned to the trolley bays by customers and, whether or not such measures are used, trolleys are clearly a matter that will require on-going management by

the owners and operators of the Shopping Park.

It is considered that it would be appropriate to impose a suitably worded planning condition to require the submission of details of parking management measures to be operated within the Shopping Park to deal with both trolleys, poor/inconsiderate parking and to help customers find parking space at the busiest periods.

Traffic Generation and Impact upon Road Congestion : The applicant's TA seeks to assess the traffic impact of the proposed foodstore, but also taking into account the additional parking demand of the new Halfords retail outlet, together with the number of vehicle trips theoretically 'lost' as a result of the proposed removal of the mezzanine floorspace from Units 2A and 3. The estimates of traffic generation are derived from a calculation of the parking requirements for the floorspace involved based on examples of similar developments nationwide. The traffic generation figures are considered then in the context of a survey of existing traffic associated with the Shopping Park.

The applicants' TA has provided manual traffic counts for just two days: Thursday 31st January 2019 and Saturday 6th April 2019. Weekday traffic flows on the link-road were observed to be 1299 and 1438 vehicles in the AM and PM peaks respectively. Traffic generation of the existing retail outlets was 128 and 324 vehicles in the weekday AM and PM peaks respectively. The weekday peak for the Shopping Park was between 1300 and 1400 hours, with 503 vehicle movements. The Saturday peak was between 1400 and 1500 hours with 648 vehicles. This suggests that the Shopping Park can contribute approximately a third to a half of the traffic on the link-road.

However, as specifically noted by HCC Highways, no traffic modelling of the adjacent road network had originally been carried out to assess the impact of the proposed foodstore on the adjoining roads in terms of overall traffic movements and traffic queuing. Although the TA indicates that the impact of the additional traffic flows on the operation of the local road network had been modelled, it was not considered that this assessment was convincing or, indeed, that the methodology used was appropriate. As a consequence HCC Highways requested that micro-simulation be undertaken of the operation of the Shopping Park vehicular access with the Link Road. This work was submitted by the applicants on 10 June 2020 and HCC Highways re-consulted. The following response was subsequently received from HCC Highways:-

"The applicant has submitted a Transport Technical Note along with a VISSIM Transport Model Assessment Report which is dated June 2020. This follows the highway authority's last correspondence dated the 15th April which suggested that microsimulation is a logical method for modelling dynamic traffic phenomenon. This would give a more accurate model for the anticipated development impact on the local highway network (Bradford's Roundabout and site access) than the previous traffic modelling that had been carried out.

The VISSIM model assessment report and the technical note have been reviewed. Figure 1.1 in the assessment report displays the model extents which includes the retail park access and Bradford's Roundabout which was agreed with the highway authority prior to this work taking place.

Having reviewed the validation and calibration information in the assessment report the highway authority is satisfied that model meets the required Geoffrey E. Havers (GEH) and journey time statistics for the flows. It appears that mostly default settings have been followed which is acceptable.

Table 5.1 displays that Bradford's Roundabout east approach arm operates within capacity in the VISSIM model during the Saturday peak hour (11:00 - 12:00). Likewise Table 6.1 displays that this arm of the roundabout also operates within capacity during the weekday PM peak (17:00 - 18:00). The development flows have been applied onto the base year without any further background growth.

For the Saturday peak with the development flows added there is no or very little change to the queue length and delays for the east approach and retail park access. The model shows that the PM peak operates no worse than the base scenario. The travel time performance is slightly higher with the development but this would not constitute a severe impact.

Table 6.1 shows that Bradford's Roundabout experiences poor performance on some arms with a Level of Service (LOS) rating of E and F. The performance of the east approach and car park access however, is acceptable and this also correlates with the previous ARCADY modelling work carried out by the applicant.

Overall the VISSIM model that has been presented by the applicant demonstrates that the proposed development traffic would not result a significant increase in queue length or journey times on the Bradford's Roundabout or car park access. The Highway Authority is satisfied that the development would not result in a severe detrimental impact on the operation or safety of the local highway network. For this reason the remaining highway objection can be removed and a recommendation of no objections subject to the following condition [relating to submission of a construction method statement] given”.

HCC Highways are now clearly satisfied that the projected increase in trip rates would not result in a material or harmful impact on the operation of the local highway network and, indeed, that no ‘severe’ impact would arise in this respect.

Transport Contribution : It would be usual for an increase in traffic generation arising from a proposed development to trigger a requirement for a Transport Contribution provided that there is an appropriate highway improvement scheme to which the contribution could be used. However, in this case HCC Highways do not indicate a requirement for a Transport Contribution.

Servicing Arrangements : The proposed foodstore and separate A1/A3 unit would be serviced from the existing generously proportioned service yard area to the rear of the building. In the case of the proposed foodstore, this is shown to have an unloading dock recessed into the ground in order to facilitate movement of goods trolley cages and pallets with direct level access into the foodstore storage warehouse : a ‘dock-leveller’. The proposed dock-leveller is provided for a single lorry to be unloaded at any one time and necessitates lorries to manoeuvre precisely when approaching and leaving the dock in order to get in and out of it. Indeed, when leaving the dock, it will be necessary for lorries to drive further down the service yard to a turning area adjacent to the rear of Unit 5 in order to be able to leave the site in a forward gear. Tracking diagrams have been submitted that demonstrate that these manoeuvres are possible without impacting upon the operation of the remainder of the servicing facilities for the Shopping Park.

It is considered that deliveries would be managed and, indeed, an element of the applicants’ request for less restricted servicing times is to enable deliveries to be made outside times of peak traffic flow into and out of the Shopping Park. It is considered that the proposed revised service yard arrangements are acceptable subject to the imposition of a condition to require the submission of details of the proposed management of the service yard and foodstore delivery times.

Travel Plan : The application was submitted with a Framework (i.e. draft) Travel Plan (FTP) in order to introduce measures to . HCC Highways has confirmed that the necessary Travel Plan financial contributions would total £5,750.00 payable to HCC. This can be secured with a s106 Planning Obligation to be completed with HCC.

HCC has also requested that, in the event of planning permission being granted it should be subject to the imposition of a condition requiring the submission of a Construction Method Statement. In principle this is considered to be a reasonable request given that the site is in a busy location and BSP outlets would continue to trade during the construction period. However, the suggested condition appears to be the standard wording used to deal with large-scale multiple phase developments involving significant site clearance and demolition prior to any building works being commenced. Given that the current proposals involve relatively minor works limited to discrete areas of the Shopping Park it is considered that any such condition should be modified to be proportionate to the scale and scope of the proposed development works involved.

Conclusions : Whilst some objections have been raised concerning the highway impact of the proposed development it is considered that, for the reasons set out in the previous paragraphs, this would be likely to be limited to the weekend peak periods and not amount to severe highways impact overall sufficient to justify refusal on highways grounds. The proposals are therefore considered to be acceptable in highway terms.

6. Flood risk and the water environment -

The application is supported by a brief flood risk assessment on account of the east side of the Shopping Park being at moderate risk of flooding. However, the portion of the Shopping Park the subject of the current application is on land at low risk of flooding and the proposals do not make any changes to the extent of the site that is hard surfaced. In the circumstances it is considered that the proposals are acceptable having regard to Policies NE6-8.

7. Access for People with Disabilities –

The proposed development should provide access for people with disabilities at least in accordance with Building Regulation requirements. It is considered that adequate means and measures would be incorporated into the development to achieve a good standard of access for people with disabilities, including provision of mobility accessible parking bays.

Conclusions –

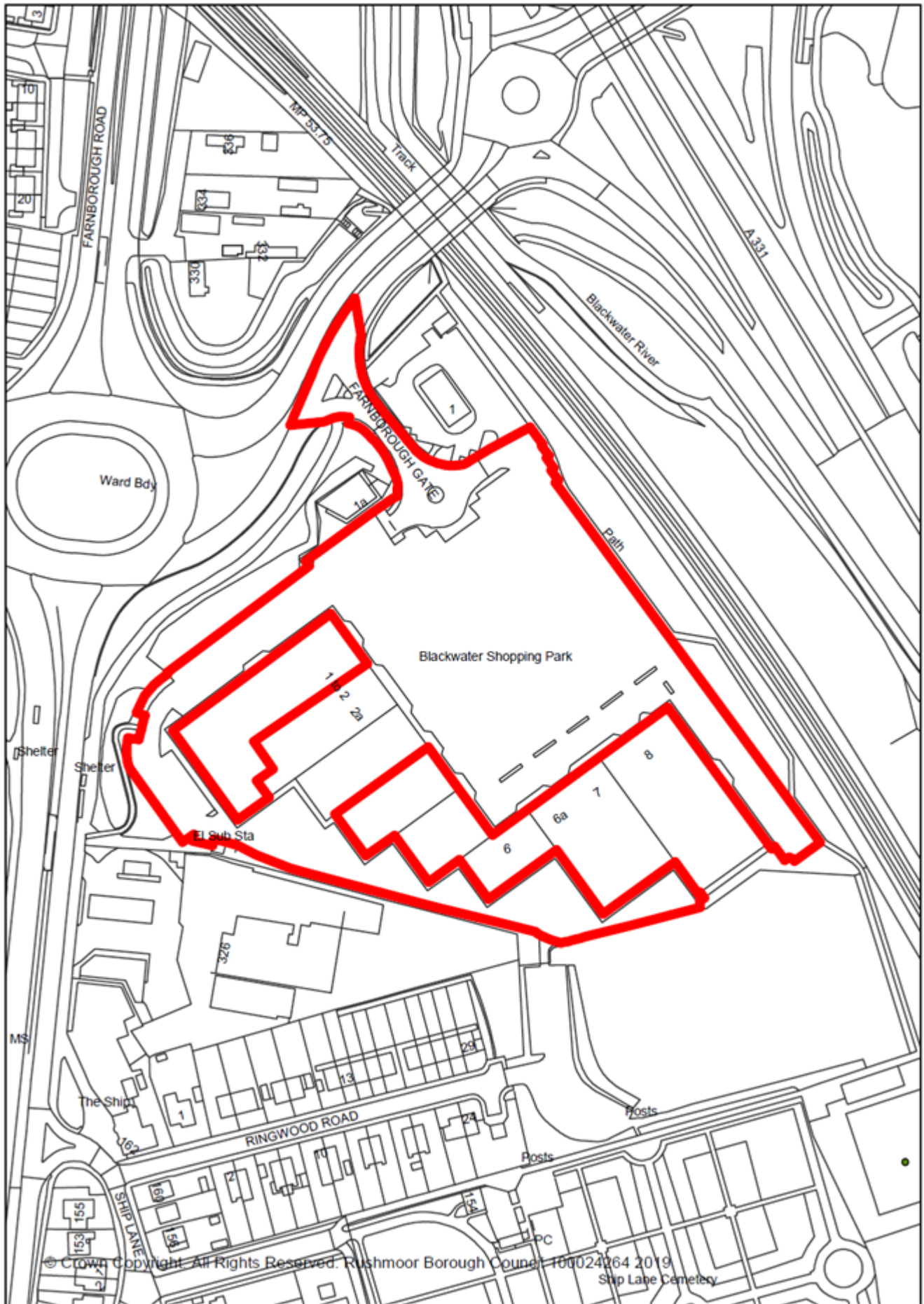
The Council must determine planning applications in the light of the relevant planning circumstances that exist at the point that those applications are determined. In this respect, whilst it is considered that the current proposals are acceptable in all other respects, they relate to an out of centre location and fail the sequential test because it is considered that there is currently an available site for a discount foodstore located in a sequentially preferable location within Farnborough Town Centre. *“Main town centre uses should be located in town centres, then in edge-of-centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered”*. In these circumstances, Para 90 of the NPPF continues by stating: *“Where an application fails to satisfy the sequential test.....it should be refused”*. In addition, it is also considered that the proposals fail the retail impact test and would, if approved, be likely to result in the loss of planned convenience retail provision at SRP in Farnborough Town Centre, to the detriment of the vitality and viability of the Town Centre.

Since the current circumstances indicate that planning permission should be refused, it is also necessary to cite the failure to secure the required s106 financial contributions for the implementation and monitoring of a Travel Plan as a further reason for refusal. However this matter could be resolved by the applicants entering into a s106 Unilateral Undertaking to secure the appropriate financial contributions in this respect.

Full Recommendation

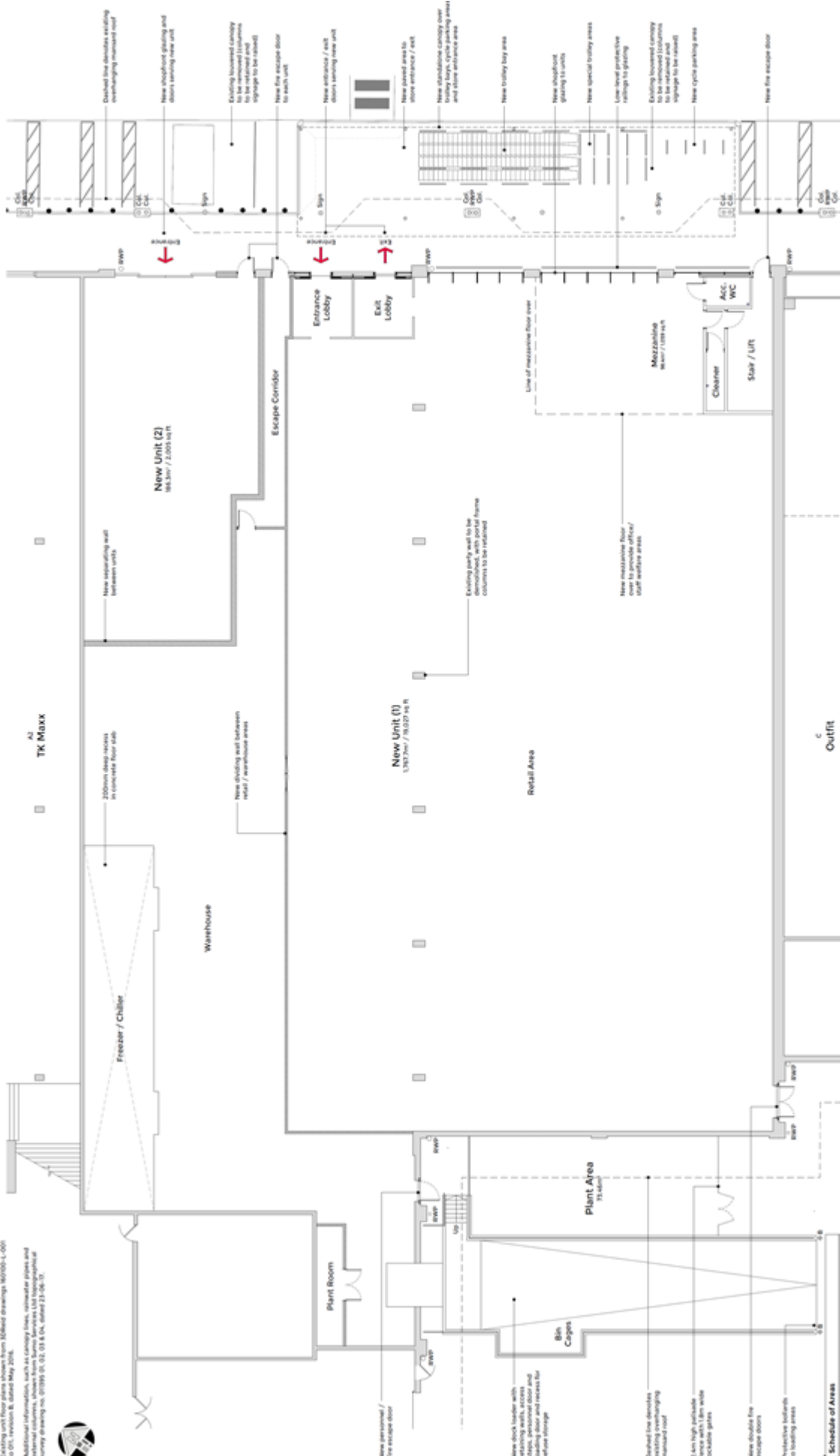
It is recommended that planning permission be **REFUSED** for the following reasons:-

1. It is considered that there is a sequentially preferable suitable and available town centre location which could accommodate the proposed development. There are also conceivably other similar available opportunities within Farnborough Town Centre that have not been investigated. Development in this out of town location would therefore be contrary to the objective of regenerating Farnborough town centre and would adversely impact upon the vitality and viability of the town centres within the Borough. As such the proposal conflicts with Policies SS1, SS2, SP1, SP2 and LN7 of the adopted New Rushmoor Local Plan (2014-2032), the advice contained in the National Planning Policy Framework and the objectives of the Supplementary Planning Documents on Farnborough Town Centre (July 2007) and accompanying Prospectus.
2. The proposal fails to make the appropriate financial contributions for the implementation and monitoring of a Travel Plan. The proposals are thereby fail to meet the requirements of Policy IN2 of the adopted New Rushmoor Local Plan (2014-2032).



Testing unit floor plans shown from McHard drawings M6100-L-0001 to M6100-L-0004, as well as drawings M6100-L-0005 to M6100-L-0008, revision B, dated May 2016.

Additional information, such as canopy lines, rainwater pipes and external columns, shown from Survey Services Ltd topographical survey drawing no. 010395 01, 02, 03 & 04, dated 23-06-07.

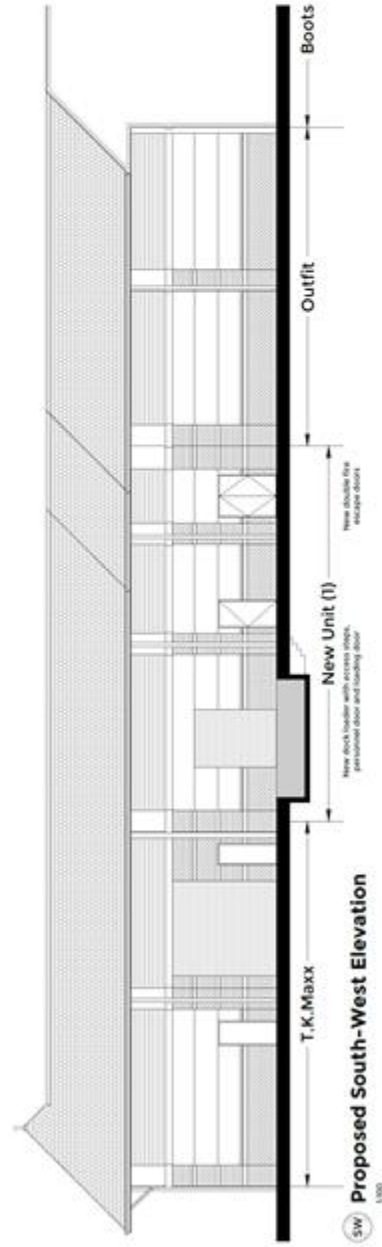
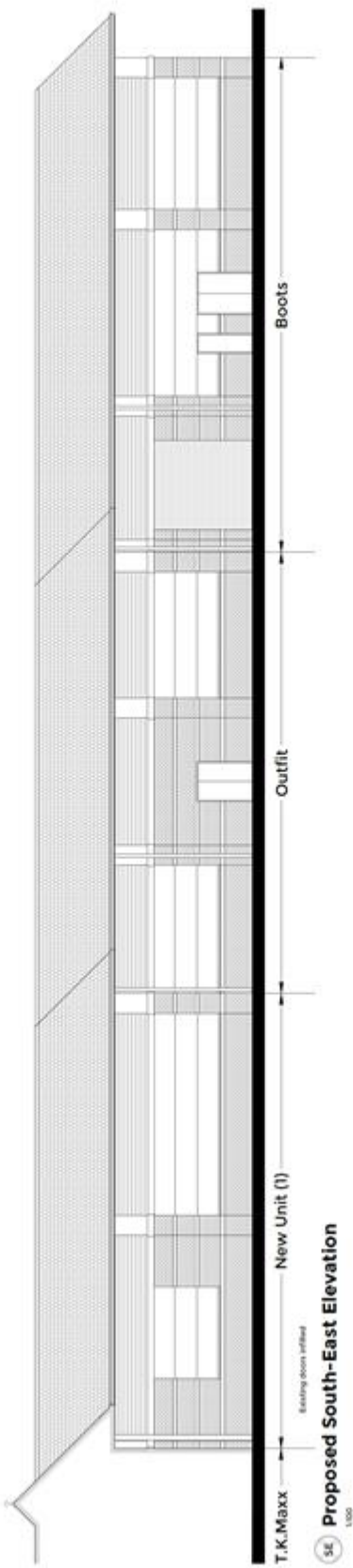
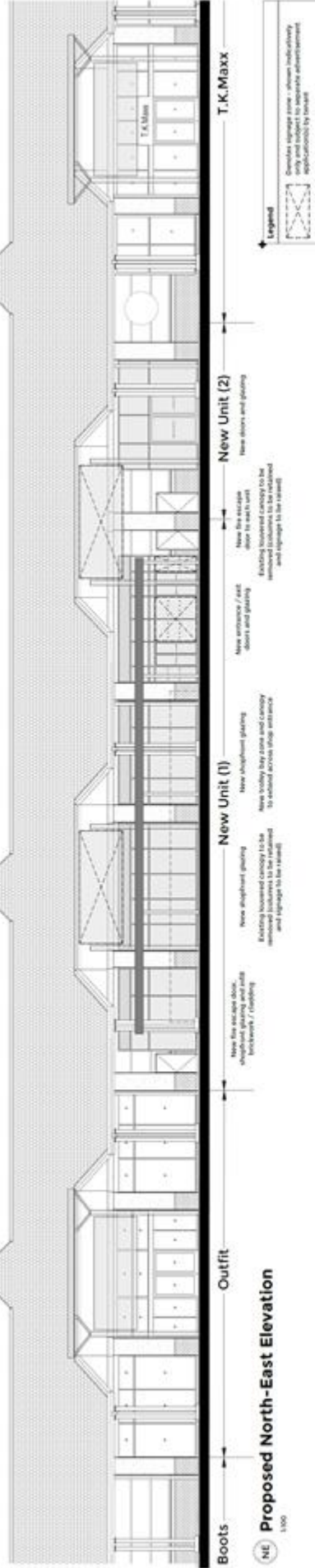


News story (2)	News story (3)
Ground Floor C&A	Ground Floor C&A
1,767,2m ² / 19,027 sq ft	184,3m ² / 2,005 sq ft
Mezzanine C&A	
98,4m ² / 1,070 sq ft	2,005,3m ² / 21,630 sq ft
	1,954m ² / 21,032 sq ft
Total	Total
3,845,3m² / 41,696 sq ft	

NB: All areas given are approximate only and based on available floor plan survey data.


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Notes
 Topographical survey - including services information, shown from
 Survey Services Ltd drawing no. 010395 05, 02, 03 & 04, dated 21-06-17.



BOYLE & SUMMERS
 Chartered Quantity Surveyors
 100-102, 104-106, 108-110, 112-114, 116-118, 120-122, 124-126, 128-130, 132-134, 136-138, 140-142, 144-146, 148-150, 152-154, 156-158, 160-162, 164-166, 168-170, 172-174, 176-178, 180-182, 184-186, 188-190, 192-194, 196-198, 200-202, 204-206, 208-210, 212-214, 216-218, 220-222, 224-226, 228-230, 232-234, 236-238, 240-242, 244-246, 248-250, 252-254, 256-258, 260-262, 264-266, 268-270, 272-274, 276-278, 280-282, 284-286, 288-290, 292-294, 296-298, 300-302, 304-306, 308-310, 312-314, 316-318, 320-322, 324-326, 328-330, 332-334, 336-338, 340-342, 344-346, 348-350, 352-354, 356-358, 360-362, 364-366, 368-370, 372-374, 376-378, 380-382, 384-386, 388-390, 392-394, 396-398, 400-402, 404-406, 408-410, 412-414, 416-418, 420-422, 424-426, 428-430, 432-434, 436-438, 440-442, 444-446, 448-450, 452-454, 456-458, 460-462, 464-466, 468-470, 472-474, 476-478, 480-482, 484-486, 488-490, 492-494, 496-498, 500-502, 504-506, 508-510, 512-514, 516-518, 520-522, 524-526, 528-530, 532-534, 536-538, 540-542, 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