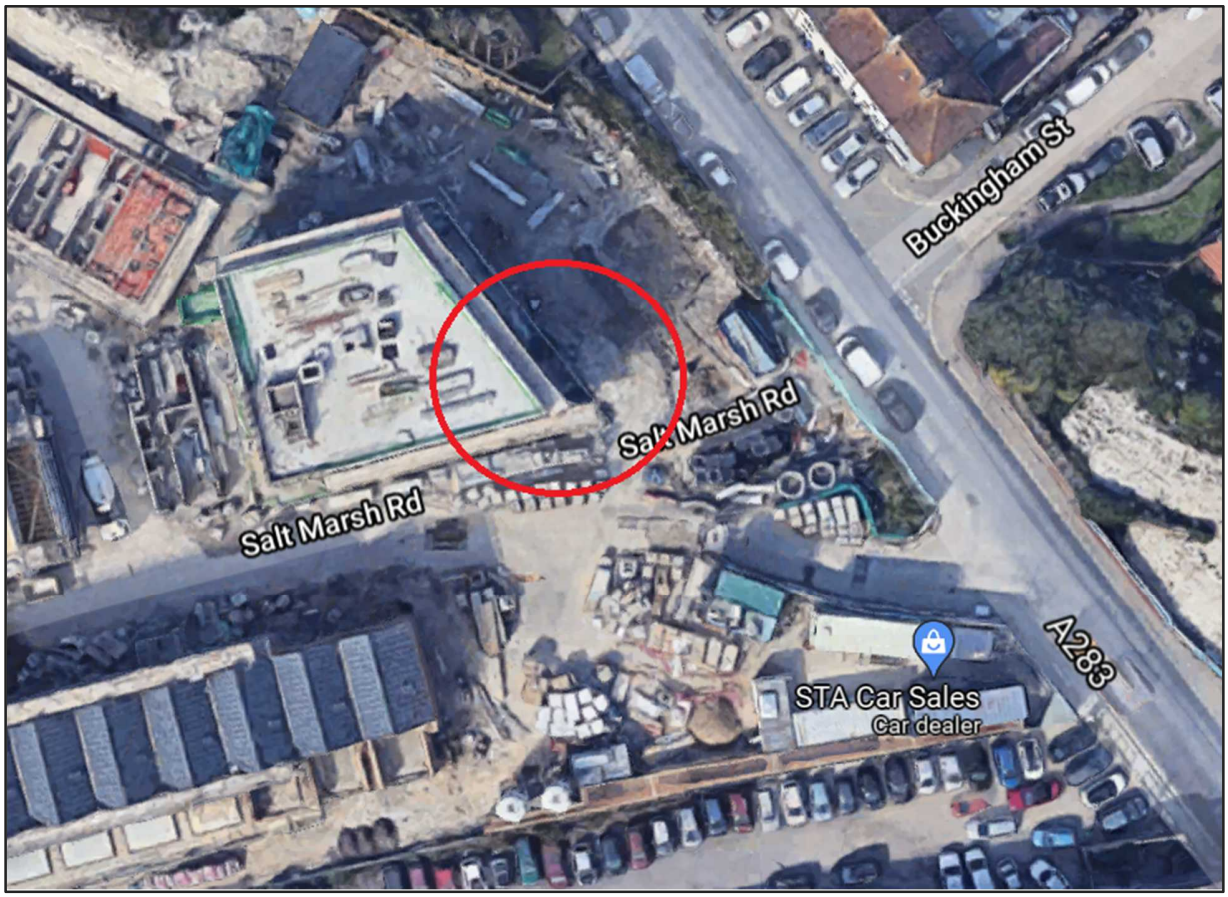
Application Number:	**AWDM/1801/21**	**Recommendation - GRANT**
Site:	**Former Riverbank Business Centre 39 Old Shoreham Road, Shoreham-By-Sea (Ropetackle North)**	
Proposal:	**Application to Vary Condition 26 of previously approved AWDM/0935/13 (Outline planning application (including approval of details of access) for redevelopment of general industrial land for a mixed use scheme with up to 120 new dwellings (Use Class C3), hotel (Use Class C1), offices and light industrial (Use Class B1), retail (Use Class A1), financial and professional services (Use Class A2) and cafe (Use Class A3), with associated roadways, parking and flood defence wall (site includes Riverbank Business Centre and 12-18 Old Shoreham Road) <u>Amendment:</u> to allow the retail store to be used as a convenience store to allow for extended opening hours from 7am to 10pm seven days a week (including bank holidays).**	
Applicant:	Mr Philip Holdcroft, Landmark Estates	Ward: St Nicolas
Agent:	As above	
Case Officer:	Gary Peck	



This application was deferred at the November meeting of the Committee to consider a further reduction in opening hours. The previous committee report is appended.

Current Situation

Members will recall that at the November meeting, 2 identical applications were considered. The application which is the subject of this further report was previously for an unnamed operator, while the other application (AWDM/2044/20) was for a named user, One Stop.

No further information has been received by the One Stop applicant and it appears that application will not be proceeded with.

In respect of the the application which is the subject of this report, further information has been submitted by the applicant on 3 occasions, to which the Waterfront Residents Association has responded each time:

The initial further information from the applicant stated:

In response, we firstly re-iterate that the use of the building as a retail store has long been established and issues raised regarding the principle of the original 2015 outline planning approval are not relevant. I outline the following updates:

1. A new operator. First, I can confirm that Landmark Estates has secured a deal with a different convenience store operator - the Co-op Group to become our future building tenant.
The Co-op are a nationwide operator well versed with operating and managing convenience stores in a variety of contexts and sensitive situations.

2. Unchanged opening hours / a consistent approach. Our deal with the Co-op is subject to opening hours remaining as per the current application. The earlier amended hours of 7am – 10pm therefore remain unchanged. I appreciate that this approach may not be what some local residents were hoping for. Their correspondence and views at Committee have been taken into account (amenity issues are addressed in more detail below).
Rather, the extended opening hours are fundamental for this store to compete, on an equal footing, with other convenience stores which are less restricted. [The applicant outlined details that 8 stores presently operate with opening hours longer than this application, 3 stores presently operate as the same as the proposed opening hours and 1 store presently operates at hours less than this proposal.]

On this basis, you will appreciate this application to extend the store's opening hours is not unusual, is consistent with what has been approved elsewhere and would provide our tenant with an equal footing with their competitors.

3. Perceived crime as a result of extended opening hours. We acknowledge residents' concern regarding the potential for adverse impacts on their amenity interests. However, as the store is not open the increase in hours having an adverse impact are, at this stage, conjecture. That the application was supported by the Council's Environment Health Officer, the key technical consultee's comments (and their raising no objection) is fundamental.
Incidents of anti-social behaviour attributed to a Co-op store (either directly or indirectly) are however rare. On the isolated occasions anti-social activities persist the Co-op are keen to stress a Management Plan can be agreed with local residents to tackle specific issues should they ever arise.

4. Convenience store benefits. Rather, the Co-op are eager to stress that their stores add interaction and generate activity at street level. This pedestrian footfall provides a passive and natural surveillance role – the concept of 'eyes on the street'.
From the onset of the scheme's outline design to the reserved matters stage a retail store has been an integral element to the design and development aspirations of the site (e.g. the convenience store adds to: a strong street frontage, overlooked parking, definition of public/private spaces). Extending the stores opening hours would help to deter anti-social activity rather than encourage it and contribute to creating a positive sense of place.

5. A betterment in terms of deliveries / reduction in noise. Members and those attending the Planning Committee will be aware that, at present, the lawful use of the retail store is not subject to any conditions regarding delivery times and that deliveries are to be undertaken directly in front of the store (using the shared parallel parking spaces). In principle, a delivery vehicle could therefore lawfully load and unload at any time of the

day or night.

Instead, in conjunction with the Co-op a Delivery Management Plan (DMP) has been prepared by specialist consultants ADL. This report not only quantifies the number of daily deliveries required by the Co-op but also: the type of vehicle to be used; proposed timing; on-site delivery parking details and other good management protocols. I highlight that:

• Deliveries / control of the delivery area is thoroughly explained in Section 2 of the report. In essence, deliveries will be made from Old Shoreham Road, reversing directly into the existing car park (via temporarily conning off the parking spaces in advance). Tracking drawings are appended and provide worst case turning tracks for two different types of Co-op vehicles showing access immediately.

This is considered a significant betterment than the current lawful position of using the parallel street frontage parking bays (whereby Co-op delivery vehicles would have to traverse through the site to the refuse vehicle turning head and turn before heading back to the store to deliver);
• This new delivery area is directly outside the back-of-house delivery door. Not only will this help to speed up the delivery process but, crucially, to reduce cage drag and noise (para 2.2.2);
• A daily delivery table with vehicle type, frequency and delivery window is provided (Table 2A – para 2.3.1). Please note main depot deliveries will be a maximum of twice daily and only be made between the hours 8am – 8pm. Potentially up to three, daily deliveries will be made from 6am but these are for newspapers / sandwiches etc and are via transit sized vehicles and involve the dropping-off of goods into a lockable storage box;
• The Co-op waste management procedures operate via a backfill approach (Section 3) highlights how, in principle, the majority of waste is stored in the empty delivery cages and returned to the main depot for sorting and collection.
• Delivery / driver protocols are also highlighted in Section 4, with the objective on minimizing noise and disturbance on existing/future residents.
In conclusion, for the avoidance of confusion, the use of the building as a retail store has long been established. It has been designed and now built to standards to ensure it will be compatible with both residents above and its wider neighbourhood.

This application is only seeking to amend the opening hours to allow the Co-op to operate on an equal footing similar to other nearby convenience stores.

An extension in operational hours will not have any specific, material adverse impact on existing and future residents' amenity interests. An increase in anti-social activities at this location is unlikely given the self-policing function of a convenience store. Where / if at all necessary, the Co-op are able to liaise with residents and organise an anti-social Management Plan.

Issues of deliveries, timings and types of vehicles is currently unfettered. This proposal is accompanied by a DMP. This presents an opportunity to qualify and quantify the times of delivery; type of vehicles; delivery management protocols etc in the interest of safeguarding residents' concerns (to be secured by condition). This presents a significant betterment to the present situation.

I hope the above demonstrates our approach to better explain the benefits of the scheme and why the extension in operational hours sought is not unusual in this location.

Following the receipt of the above information, the Waterfront Residents Association made the following comments:

We refer to the decision of the Adur Worthing Planning Committee of the 8th November to defer consideration of application AWDM/1801/21 and a previous application AWDM/2044/20 which both sought approval for extending the opening hours of the convenience store from 8am to 6pm (with reduced hours on Sundays and key holidays) to between 6am to 11pm every day of the year.

The reason for deferral was for the applicant to address Committee Member's and resident's concerns about the proposal and for the applicant to provide more supporting evidence.

Our objection to the proposal still stands. In our mind, all aspects of location, design and operation of this shop were not given proper consideration at outline application stage and this is now giving potential operators, building owners and residents a major problem.

We would re-iterate Association's following concerns about the applications to be:

- *significant traffic generation and accompanying traffic noise outside homes early in the morning and late into the night.*
- *limited parking and turning for customers and deliveries with the access to homes likely to be blocked in the absence of enforced parking control measures*
- *traffic being invited into the estate which has been designed as a pedestrian and cyclist environment, with no pavements, creating an unplanned road safety hazard*
- *customers congregating and making noise beyond the 11pm or officer proposed 10pm closing time, leading to complaints to the Police and the Council*
- *disruption and noise from late and early deliveries, and;*
- *general loss of privacy beyond reasonable time*

If the Committee is minded to grant permission, then residents would want the applicants to give full consideration to:

- *<u>restricting opening to between 8am and 8pm, with earlier closing on key public holidays</u> -*

  10pm closing is too late for a quiet residential setting and will attract vehicle movement, generate noise, anti-social behaviour and light pollution beyond reasonable hours

Early closing on Sundays and other key holidays would at least give some respite.

- *the approval of an effective parking and traffic management scheme before occupation -*

Parking for the shop for 4 cars directly outside the shop will be insufficient and is badly sited. It will lead to overflow double parking outside of resident's home blocking private parking spaces and access to the estate. In this location turning options will be limited and obstructive to the main estate access road.

We believe that parking for the shop should be reallocated to the front car park away from residents' homes and away from the estate access road. This will facilitate less disruptive parking, better turning and move noise away from many resident's homes. Spaces currently allocated to residents in that area could be reallocated to the visitor layby on Salt Marsh Road. Hyde Housing Association who are the estate managers and freeholders and who are leasing the shop should be asked to facilitate this.

Customer and delivery vehicles could further be restricted from accessing estate roads predominantly designed for pedestrian and cycle use by the erection of a controlled barrier immediately after the shop on Salt Marsh Road.

Maintaining road safety on the estate's private roads is a key factor.

- *seek the adoption of the highway outside the shop to enable police control of traffic and dangerous parking -*

It is noted that the original section 106 agreement against the outline planning permission indicated that the estate roads were private, for use by only those on foot and bicycle. Is the area outside of the shop precluded from that covenant or is West Sussex County Council, as highways authority now proposing to adopt and pay for the maintenance of that part of the highway. Some clarity on this matter would be appreciated as residents across the estate might be required to pay for the maintenance of the access, parking and turning areas for the shop.

- *require the design of any signage to be sympathetic to the estate entrance –*

The shop is located at the entrance to the estate and, whilst it is important to attract customers, it is equally important to achieve a design which is commensurate with the quality of the new buildings and which is visually sensitive to the surrounding environment.

- *ensure that the level of night-time illumination does not further harm the amenity of adjoining occupiers –*

We would ask that illuminated signage be limited in intensity and placed on the shop frontage facing Old Shoreham Road and not down the side elevation on Salt Marsh Road which would directly bring light into more homes and bedrooms that front onto the road.

We hope that you will seek to achieve these objectives in your discussions with the

applicant.

Following the receipt of this representation, the agent submitted further information:

Further to my letter dated 18th November and the Waterfront Residents' and Tenants' Association letter dated 23rd November, the following clarifies a number of points raised:

Amenity interests

The Association's six bullet points highlighting the potential of adverse amenity impacts are noted. We seek to reassure their concerns:

The Co-op Group operate 2,600 convenience stores nationwide in a variety of contexts and sensitive surroundings (Co-op brochure enclosed). My earlier letter highlighted that as a company the Co-op are well versed in dealing with anti-social activities. That letter stated how incidents of anti-social behaviour attributed to a Co-op store (either directly or indirectly) are rare. Also, that the Co-op are eager to stress that their stores add interaction and generate activity at street level. This pedestrian footfall provides a passive and natural surveillance role – the concept of 'eyes on the street'. On the isolated occasions anti-social activities persist the Co-op are keen to stress a Management Plan can be agreed with local residents to tackle specific issues should they ever arise. To expand on this issue:

• The Co-op suggest that prior to the store's opening key members of the Waterfront Association are invited to a private 'meet the manager / opening evening'. This will enable any key site-specific issues to be discussed / noted in advance of the store opening and provide a helpful point of contact.

• If any issues persist or remain unresolved the Area Manager is a further point of contact who will be able to offer their wider experience and liaise with the Co-op's experienced customer care team (should further action be required).

• CCTV are operated both internally and extemally (across the Co-op car-parking demise area) to record and capture evidence of anti-social activities.

In the unlikely event of an eternal incident occurring, the Co-op tannoy system has been used to inform customers of any external problem or draw attention to troublemakers that they are being recorded. From experience, the Co-op state this 'real-time' intervention has de-escalated unruly behaviour.

• The Co-op operate a Challenge 25 policy regarding alcohol sales. If they believe the purchaser is 25 or older our colleagues will authorise the sale without requiring proof of age; if they believe the purchaser is under 25 they will ask the purchaser to prove that they are old enough to buy the products.

<u>Opening hours</u>

The Association request that Members of the Planning Committee consider a further amendment be made to the proposed opening hours to be between 8am and 8pm. In response, the proposed store opening hours has already been amended to 7am to 10pm. Any further change is simply not acceptable. I reiterate my earlier comments (letter dated 18th November with supporting convenience store comparison map) that this application to extend opening hours:

• Is fundamental for this store to compete, on an equal footing, with other convenience stores which are less restricted;
• Will be consistent with what has been approved elsewhere; and
• Is not unusual.

<u>The approval of an effective parking and traffic management scheme before occupation</u>

As per my earlier letter, issues of deliveries, parking, timings and types of vehicles is currently unfettered. This proposal is accompanied by a Delivery Management Plan. This presents an opportunity to qualify and quantify the times of delivery; type of vehicles; delivery management protocols etc in the interest of safeguarding residents' concerns (to be secured by condition). This presents a significant betterment to the present situation.

In response to the Association's site-specific parking queries:
1. For the avoidance of confusion, the Co-op's allocated parking consists of the 5 parallel bays to the front of the site (to be used as the commercial loading bay / additional visitor parking) and 12 spaces at the front of the development.
2. This parking arrangement and allocation has already been approved and any changes are not considered necessary or beneficial.
3. Delivery vehicles are not being routed around the Estate roads and will be confined to the Co-op's front car park (as per the DMP).
4. Road safety on the Estate private road will not be affected by this development.

<u>Seek the adoption of the highway outside the shop to enable police control of traffic and dangerous parking</u>

We are happy for Hyde and West Sussex Highways to advise on this matter.

<u>Require the design of any signage to be sympathetic to the estate entrance</u>

Members will appreciate any signage design will be subject to a future advertisement consent application. Such an application will, of course, be subject to public consultation and Council scrutiny.
Notwithstanding, you will appreciate that Co-op operates a number of stores located within 'light-sensitive' contexts (e.g. Dark Sky villages, listed buildings, mixed-use buildings – such as this site) where a bespoke design can seek to balance local views with commercial requirements.

<u>Ensure that the level of night-time illumination does not further harm the amenity of adjoining occupiers</u>

As above, a bespoke lighting design and associated technical report (setting out style/type of light, LUX capacity, light spread/glare, nearest light sensitive receptors etc) would be prepared to accompany any future advert/lighting application.
The issue of opening hours remains non-negotiable. However, I hope the above demonstrates how: both the Co-op and Landmark have taken account of the Associations concerns; where possible, the Co-op have operational procedures in place to minimise the scope for anti-social behaviour / reduce noise impacts; and we are able to clarify

several traffic / parking / signage / lighting related concerns.

The Waterfront Residents Association further responded:

The Hyde Housing Association will continue to own the freehold of the shop and indeed will continue to hold responsibility for managing access to the highway, private estate roads, visitor parking spaces and the social housing units above the shop, together with other leaseholder properties across the Waterfront Estate. It is Hyde that can most effectively control, through its lease, how this unit is occupied in terms of vehicle access, parking, hours of operation, signage, levels of illumination etc. But this does not appear to be happening.

We would therefore hope for a more collaborative approach between Hyde, Landmark Estates as managing head lessee, any retail sub lessee and the WRTA in terms of achieving the best outcome for residents while establishing a viable, yet sympathetic, retail operation.

Turning to the applicant's letter and supporting documentation placed on the planning portal, we are pleased that an organisation, such as the Co-op, with a high degree of social conscience and experience in managing similar retail settings is proposing to take a lease to run the convenience store. However, a central objective of the WRTA is to protect the amenity of this quiet residential community and, in particular, that of immediately adjoining residents.

Therefore, many of the undertakings offered by Landmark Estates, with the agreement of the Co-op Group, are welcome. However, the WRTA is concerned that whatever is agreed should run with the property rather than with just the Co-op Group as the initial occupier. So, we would call on the Council to ensure that all such undertakings are set out as planning conditions backed up by a section 106 agreement and/or a requirement, backed by evidence, for the applicant to include these undertakings as covenants in any lease assigned or sublet.

As set out, in the applicant's letter, these undertakings include:
• A collaborative relationship between the WRTA and the Store Manager
• Support from the Area Manager in resolving persistent and unresolved issues
• Internal and external CCTV including coverage across the customer parking areas
• A tannoy warning system to be used in exceptional circumstances of trouble and anti-social behaviour
• The Challenge 25 Policy requiring proof of age of customers purchasing alcohol who look younger than 25
In addition to these undertakings WRTA would want to see:
• An anti-litter policy whereby store employees are required to clear up any mess caused by their or their customers' actions.
• Consultation and agreement on the exact location of trolley stores and an undertaking that store employees will regularly check to ensure all trolleys are returned to the correct location.

In terms of parking, it is noted that the applicant has clarified that the 12 spaces in front

of the store fronting Old Shoreham Road, marked CO1-12, plus the disabled space are reserved for customer parking. It would have resolved confusion had Hyde initially advised the WRTA on this matter. We would therefore want clear signage directing shop customers to those spaces and signage or some other control that protects the adjoining Waterfront parking spaces for residents. To avoid future confusion, we would ask that parking arrangements are also the subject of planning conditions and a section 106 agreement. We would therefore not wish to change this parking arrangement, rather ensure that it is enforced by the retail occupier or by Hyde through the parking control measures introduced for the estate.

The Delivery Management Plan submitted to the planning portal shows that vans and articulated lorries will be directed to customer parking spaces that will be coned off in advance of a delivery. The Plan clearly shows that larger vehicles will have to enter Salt Marsh Road to a point adjacent to the shop then reverse into the customer parking area. The vehicle will then need to drive forward across Salt Marsh Road before reversing again to the customer parking area to unload.

Whilst it is preferable to have such deliveries at the front or rear of the shop, such manoeuvring will result in congestion blocking residents' cars, traders and emergency vehicles from entering or leaving the estate. Similarly, vehicles wanting to access the estate will have to queue on the Old Shoreham Road while larger articulated vehicles try to get in or out exacerbating existing traffic problems. Such manoeuvring could also block Chalkhill Blue residents from leaving or accessing their parking spaces.

These problems will grow with traffic generated from the development of the adjacent site for either hotel or residential use.

These are critical highway and site access issues that should have been tackled and resolved in considering the outline planning application and demonstrate again that this store was not originally considered for convenience store use.

We would re-iterate that in the current section 106 planning agreement running with the outline planning consent West Sussex County Council requires that the roads remain private and unadopted with a public right of way for only pedestrians and cyclists. This is most likely for the Council to avoid paying for maintenance. If the shop forecourt and road directly outside the shop is to be used for customers vehicles and heavy goods delivery vehicles then residents would expect that section of highway to be adopted and not expect to pay for its maintenance. This would be through an amendment to the section 106 agreement with Hyde.

It is further noted that the design of shop fascia signage and level of associated illumination will be the subject of a further advertisement consent application. In this respect, it would be very helpful if this signage and illumination is kept to the Old Shoreham Road frontage away from the close windows of adjacent and adjoining residents living on Salt Marsh Road.

The WRTA remains concerned about the extension of the shop's opening hours from what was originally 8am to 6pm with restricted hours on Sundays and Bank Holidays.

This implied a very different form of retail use than that of a convenience store. Longer times of opening are the norm for convenience stores but that was clearly not the intention of the outline planning consent which, only recently, attracted residents to homes adjacent to this unit. The proposed 7am to 10pm hours would still lead to significant activity and disruption for residents well into the night and we will be pressing the Committee to further restrict opening hours to between 7am to 8pm with early closing, say, 4pm on Sundays and Bank Holidays.

Finally, the applicant has submitted a map annotated with the location of existing convenience stores across the local district. It should be noted that each of these locations are in different environments to the store proposed for the Waterfront Estate and comparisons are not strictly relevant. On visiting those sites and, on closer examination, it can be seen that most are smaller in operation, many only have flats above likely intended for the storekeeper or directly owned by the shop, others are not in such traffic sensitive locations, some have dedicated off street private parking spaces, some standalone with no residential use above and others are in existing busy retail centres. Virtually none are under blocks of affordable rented properties, likely to cause traffic conflict and noise for so many residents on every day of the year for such long periods.

The applicant further responded:

Following receipt of the WRTA letter dated 13th December, we were pleased to read that our earlier details have assisted the WRTA in better understanding the scheme. We hope the following provides some further comfort and clarity on the issues raised in their correspondence:

<u>Undertakings offered by Landmark Estates</u> We are pleased to note that the WRTA acknowledge "the experience of the Co-op in managing retail setting" and the Management Plan safeguards set out via the five bullet points. Two additional undertaking suggested by the WRTA (an anti-litter policy and exact location of trolley stores) have been acknowledged by the Co-op as being perfectly acceptable. We do not think that these operational procedures are appropriate to be conditioned and certainly don't need to be subject to a S106 agreement. The use of the store has previously been approved and the potential tenant is irrelevant. However, legal assurances can be provided by the Co-op tenant via a Management Plan (with the direct input from the WRTA)

<u>Parking</u> We are pleased to have clarified any confusion and that the store's dedicated parking will be to the east side of the building (fronting Old Shoreham Road) together with the parallel parking bays at the front of the store. Appropriate car park management measures and signage, clarifying parking restrictions, will be in place (subject to a future advertisement application). Where/if necessary, the Co-op use a parking management company 'Horizon Parking' to enforce parking restrictions.

<u>Delivery Management Plan</u> With regard to the delivery access manoeuvre and its potential for conflict or congestion, we would like to reassure the WRTA that such a manoeuvre would be completed in a matter of seconds.

Regarding adoption and maintenance of the roads, after accessing the site the delivery

vehicles are predominantly remaining within our own demise area. A management company will be responsible for the maintenance and upkeep of these associated areas.

Opening hours Whilst the WRTA kindly acknowledge that longer opening times for convenience stores are the norm, we note the Association's concern and preference is for a 7am – 8pm opening time, with further reduced hours on Sundays and Bank Holidays. Unfortunately, as a commercial project, this is simply not viable (as explained in my earlier correspondence). With reference to the approved reserved matters details (planning reference AWDM/1006/16), submitted by Hyde (who are not a convenience store operator), the WRTA are of the opinion that this approved retail unit was never intended as a convenience store. This view is incorrect. The supporting reports and associated drawings specifically state the retail use as a convenience store and have even illustratively designed its shop front design. The Design and Access Statement – Section 10, Layout, shows the site layout for Block 3 with supporting text below, stating (my underlining) "Retail Unit Community retail space at the entrance to the scheme will provide a convenience store to the locality as well as providing local employment."

With regard to the submitted 'convenience store comparison map' its purpose is to demonstrate that the majority of existing convenience stores operate with opening hours that are identical to that being proposed. In other cases, store opening hours are longer than what we are seeking to achieve. Whilst these existing stores maybe contextually different to this proposed site, they all have residential properties above or in proximity. Examples of a ground-floor convenience store accommodated within a taller, mixed-use apartment building are however frequent in many central areas.

Given the aforementioned safeguards, an extension of opening hours would not cause undue harm to the amenities of any existing/future occupiers may reasonably expect to enjoy, be that with 1, 2 or 100 apartments above the store.

Shop signage/lighting The WRTA's comments regarding illumination being restricted to the Old Shoreham Road frontage is duly noted and forwarded to the Co-op's design team. As stated, a lighting and advertisement application will follow. Pre-application details can be shared with the WRTA prior to any future submission.

In conclusion, as per the WRTA's letter, a collaborative approach in "achieving the best outcome for residents whilst establishing a viable, yet sympathetic, retail operation" is welcomed. We trust the above further information and clarification is useful and demonstrates both Landmark's and the Co-op's desire to assure local residents that their amenity interests will not be unduly affected. However, the principle of this application is opening between 7am – 10pm is non-negotiable.

The Residents Association further responded:

The purpose of our objection is not to deny the already agreed and accepted retail use of these premises. It has been to ensure that moving into the future, as retail operators of this property change, the operation of the store is properly and effectively controlled by the Council.

As it stands, a retail user opening from 8am to 6pm, with reduced hours on Sundays and Bank Holidays, would be considered reasonable by many retail operators. The key factor is that the applicant is proposing to change the nature of the retail use to that of a convenience store, which it is stated, is only viable with greatly extended hours of operation.

The applicant states that 'the use of the store has already been approved and that the potential tenant is irrelevant.' The WRTA would suggest that the type of potential tenant is both relevant and material if that tenant is totally dependent on such extended hours of operation. Surely, that is the reason for this planning application. It is not for the applicant to state that the hours of operation are 'non-negotiable' against an existing measured planning consent.

The only manner in which the Council can control and minimise the impact of such a retail use with extended opening hours in a quiet residential setting is to exercise its planning and licensing powers from the outset. Controlling the hours of operation will significantly protect the amenity and environment of adjacent residents and those living above from noise generated by customers and their vehicles, noise and disruption from deliveries and light pollution from very early hours until late into the night.

From this point of view, it is imperative that retail deliveries, customer parking and storage of trolleys are kept away from the Salt Marsh Road, the estate's main access road.

Most worryingly, the applicant also says that the operational procedures and standards of the Co-op, should not be bound by planning condition or by section 106 agreement. If the Council do not take that approach to control the use of this property there will be no legal restriction over the operation of this type of retail user in such a sensitive mainly residential location.

Further information provided by the applicant has heightened the concerns of all estate residents who are aware that the site adjacent to the shop is to developed with a proposed sizeable residential block, with limited parking. This is not the planned hotel use with sizeable off street underground parking and servicing as specified in the outline planning application.

If this happens there will be significant congestion at the entrance to the Waterfront Estate coming from delivery vehicles, customers and the increased number of residents accessing the estate. We certainly do not accept the applicant's assertion that delivery vehicles, particularly those of a size necessary to service a convenience store, will complete their reversing manoeuvres in 'a matter of seconds'. From residents' existing experience, we expect that these unplanned changes to the original outline consent will cause major problems for vehicles seeking to enter and leave the estate, exacerbating existing peak hour traffic delays on the Old Shoreham Road.

Given these apparent departures from the outline planning consent the WRTA would request that the Council should take this opportunity to undertake a thorough review of the planning situation at the entrance to the Waterfront Estate to include the impact of a changing retail operator requiring extended hours of operation, the potential change in

use of the adjacent development site, estate access and Old Shoreham Road congestion issues and the overall detailed design of the estate at a key gateway to Shoreham. We would hope that planning permission for this proposal is withheld until such a review has been completed.

Further letters of representation

3 further letters of objection have been received on the grounds set out on in the previous report namely:
- the proposed opening hours are excessive
- noise and disturbance
- anti social behaviour
- increased traffic
- light pollution
- effect of deliveries
- there has been no consultation from the original developer

2 letters of support have been received stating the store will be of benefit to the local community and that the opening hours are not excessive given the proximity of a pub across the road.

Planning Assessment

As outlined in the previous report, it is considered that the main issue in the determination of the application is the effect of the extended hours upon the amenities of neighbouring residential properties. Members of the Committee will recall that the application as originally submitted proposed opening hours of 6am to 11pm, but your officers had considered that the proposed hours should be altered to 7am to 10pm which the applicant agreed to. At the time of the consideration of the previous application, there was not a named user.

As can be seen from the update section above, there have been a number of submissions from the applicant and the Residents Association, with the objections of the latter remaining.

While the objections of the Residents Association are noted, it is not considered a number of the objections could be justifiable reasons for a refusal of the application. Although it is inferred that the proposed use is much different from that originally envisaged, it is a matter of fact that the outline consent allowed a (then) A1 use in the building and therefore could have been occupied by the Co-op pursuant to that permission.

Among other issues cited in the objections from the Residents Association is the potential change in use of the adjacent development site. However, at present there is no planning application for such a use and therefore this cannot be considered as a material consideration in respect of the current application.

Similarly, it is not considered that matters of estate access can be used as a reason to resist this application. The outline permission already allows a retail operator to occupy

the site, and it is not considered that an application solely for a change to the opening hours can be used as a reason to review access matters to the wider site given, as the Highways Authority concludes, vehicular movements are likely to be lower than within the hours already permitted.

It is considered helpful that a named user has now been provided and a Delivery Management Plan submitted with the application. This can be conditioned as part of any permission (indeed such a condition was proposed under the previous recommendation in any case) and can be worded in such a way so that any deviation from it would require a fresh planning application. With particular reference to the current application it is noted that the delivery times are set out as 8am to 8pm for any lorries and only a van would visit the site earlier to deliver newspapers and sandwiches. There was no such specific condition on the outline permission and therefore would allow the Council to have greater control than was previously the case.

Your Officers remain of the view that it was always intended that the Ropetackle North development would be a mixed use development and the retail store was an important part of the overall development. It was similarly concluded previously that the restricted opening hours may be a deterrent to a potential retailer occupying the unit. The applicant was present at the previous Committee meeting and has confirmed that the named occupier would not wish to proceed with the restricted hours. In light of the town centre location of the site and fronting a busy road, it is not considered that the proposed hours are excessive and accordingly it is considered that permission should be granted.

Recommendation

APPROVE

Subject to the following conditions:

1. Approved Plans
2. Opening hours restricted to 0700 to 2200 hours
3. Operation to be full accordance with the submitted Delivery Management Plan

and reimpose any conditions of the outline permission that remain applicable to the development.

APPENDIX A - Previous committee report 8 November 2021

Proposal, Site and Surroundings

This application seeks permission for a variation of condition 26 of the original outline planning permission for the Ropetackle North development. It relates to the proposed retail store close to the entrance of the site.

The relevant condition states:

The class A1 retail store hereby approved shall not be open for trade or business other than between the hours of 8.00 am and 6.00 pm on Mondays to Saturdays and between 10.00 am and 4.00 pm on Sundays and Public Holidays.

Although the majority of the remainder of the development is now complete and the retail store has been constructed in accordance with the permission, it has not yet been occupied.

The retail store fronts Old Shoreham Road with a parking area between it and the road. It is part of a block containing residential units immediately above and to the side and rear.

This application was submitted in September, and therefore unlike the identical earlier application which appears elsewhere on the agenda was the subject of consultation of residents as by then the adjoining properties were occupied. Any permission cannot be issued until a Deed of Variation is completed updating the original Section 106 agreement. While this proposal itself does not affect the provisions of the legal agreement, case law has established that where a new permission is granted on a development site, the Section 106 agreement must be updated to reflect that a subsequent permission has been granted.

While the previous application was specifically submitted by One Stop Stores Ltd, this application does not specify any particular end user.

Relevant Planning History

Outline planning permission was granted in 2015 for the redevelopment of the Ropetackle North site and the condition which is the subject of the application formed part of that permission (AWDM/0935/13). Reserved Matters approval was granted in 2017 (AWDM/1006/16) and construction of the development, which is now substantially complete, commenced soon after.

An identical application submitted in December 2020 by a different applicant appears elsewhere on the agenda.

Consultations

Environmental Health

Any comments will be reported verbally at the meeting

Sussex Police

Despite the level of crime and anti-social behaviour in Adur & Worthing district being average when compared with the rest of Sussex, I have no major concerns with the proposals at this location, however, additional measures to mitigate against any identified local crime trends and site specific requirements should always be considered.

I have had the opportunity to examine the detail within the application and in an attempt to reduce the opportunity for crime and the fear of crime I offer the following comments. I refer the applicant to previous correspondence from this office Your Ref: AWDM/2044/20 dated the 16th of December 2020 and Our Ref: LM/ADU/20/08A dated the 17th

December 2020 to which all comments remain extant.

I reiterate my comments as made previously in December last year - my only concern with this application from a crime prevention perspective is that of the amenity of the surrounding residential community who may be adversely affected by high numbers of footfall early in the morning and late into the night 7 days a week all year round.

West Sussex Highways

The Local Highway Authority (LHA) has been consulted regarding the above application for the variation of Condition 26 of approved application AWDM/0935/13, to allow for extended opening hours of retail store.

The site has planning permission for retail use previously permitted under planning application AWDM/0935/13. The new proposed operation hours are 6am – 11pm, 7 days a week and including Public Holidays. The LHA would not expect this change in operation hours/days to give rise to any highway safety or capacity concern.

The proposed use will operate longer opening hours than the existing; however, overall vehicular movements to and from the area are anticipated to be reduced outside of the peak operating hours. In conclusion, the LHA does not consider that this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 111), and that there are no transport grounds to resist the proposal.

Representations

Waterfront Residents and Tenants Association

I am writing as Interim Chair of the new Waterfront Residents' and Tenants' Association on behalf of the Association and affected residents to strongly object about the proposal to extend the opening hours of the convenience store identified as at the former Riverbank Business Centre, 39 Old Shoreham Road, West Sussex. The proposal seeks to change the existing approved hours from 8am to 6pm Mondays to Saturdays and between 10am to 4 pm on Sundays and Bank Holidays to between 6am to 11pm, seven days a week including Bank Holidays, throughout the year. This being through an application to vary Condition 26 under the approved outline planning application ref. AWDM/0935/13

The Association is not against a convenience store but are extremely concerned about this extension in hours from the original approval because of its detrimental impact on the amenity of the area, every single day of the year.

Adjoining and adjacent occupiers have contacted the Association to say that they object to the proposal for the following reasons:
(i) it will lead to significant traffic generation and accompanying traffic noise outside of their homes late into the night
(ii) it will potentially block existing parking spaces and general road access for residents

arriving home late, in the absence of any parking control measures or enforcement on the estate
(iii) it will potentially lead to customers congregating and making noise beyond the 11pm closing time, leading to complaints to the Police and the Council's Environmental Health Department
(iv) it will create disruption and noise from late and early deliveries and;
(v) it will lead to the general loss of privacy beyond a reasonable time.

These concerns are well founded relevant planning considerations and are supported by the Association. I am sure that individual residents will make their own concerns known to the Council.
I would hasten to add that the Sussex Police, in their letter of 4th October 2021, ref: LM/ADU/20/08B have also previously expressed concern over this application to extend these hours with the observation:

'I reiterate my comments as made previously in December last year - my only concern with this application from a crime prevention perspective is that of the amenity of the surrounding residential community who may be adversely affected by high numbers of footfall early in the morning and late into the night 7 days a week all year round'
If the Council is minded to grant permission, it should use this opportunity to ensure that the proposed hours/days of operation are significantly reduced, that the design of any signage is sympathetic to this entrance to the estate and that illumination is such that it does not further harm the amenity of adjoining occupiers.

Finally, it is noted that the owners of the Estate have covenanted under the S106 agreement with West Sussex County Council not to allow the regular use of private roads on the Estate by members of the public other than those on foot or by bicycle. This was to ensure that the Council does not have to adopt this highway. This would imply that access to the shop by car is not possible. Is the Council, as local planning authority, intending to restrict vehicle access through a planning condition to enforce this covenant?

17 letters of objection have been received on the following grounds:

- the proposed opening hours are excessive
- noise and disturbance
- anti social behaviour
- increased traffic
- light pollution
- effect of deliveries
- there has been no consultation from the original developer
- rogue parking is already a problem
- there is no need for a shop

Relevant Planning Policies and Guidance

Adur Local Plan 2017: Policy 11 - Shoreham by Sea, Policy 15 - Quality of the Built Environment and the Public Realm, Policy 27 - Retail, Town Centres and Local Parades

Relevant Legislation

The Committee should consider the planning application in accordance with:

Section 70 of the Town and Country Planning Act 1990 (as amended) provides that the application may be granted either unconditionally or subject to relevant conditions, or refused. Regard shall be given to relevant development plan policies, any relevant local finance considerations, and other material considerations; and

Section 38(6) Planning and Compulsory Purchase Act 2004 that requires the decision to be made in accordance with the development plan unless material considerations indicate otherwise.

Planning Assessment

The principle of the development was established by the grant of the outline permission which included provision for the use of the unit for retail unit. The main issue is therefore the effect of the extended hours upon the amenities of neighbouring residential properties.

The redevelopment of the Ropetackle North site was intended as a mixed use development of which a retail store was considered an important aspect. The outline permission restricted the hours of use of the unit although at that point no end user had been identified.

Unlike the other application relating to this site which appears elsewhere on the agenda, this proposal does not involve a named user. As such, the application from a named user at least allowed comparison with their existing stores so that comparable hours could be considered in the determination of the application. The case for granting the hours as proposed under this application would seem less compelling, therefore, and as with the other proposal it is considered that opening an hour later and closing an hour earlier would appear appropriate. It is understood that the applicant would be willing to agree to such an amendment.

The concerns regarding traffic and parking are considered in the previous report and it is considered that the same conclusions can be reached in respect of this proposal. Similarly, it would also be necessary to impose an additional management plan condition.

Recommendation

APPROVE

Subject to the following conditions:

1. Approved Plans

2. Opening hours restricted to 0700 to 2200 hours

3. Submission of Management Plan in respect of noise mitigation for the use and

deliveries.

4. Re-imposing any conditions of the outline permission that remain applicable to the development.