CgMs Consulting
Tesco Stores Ltd & Caffyns PLC

WB/ 10/0966/FULL
MAR
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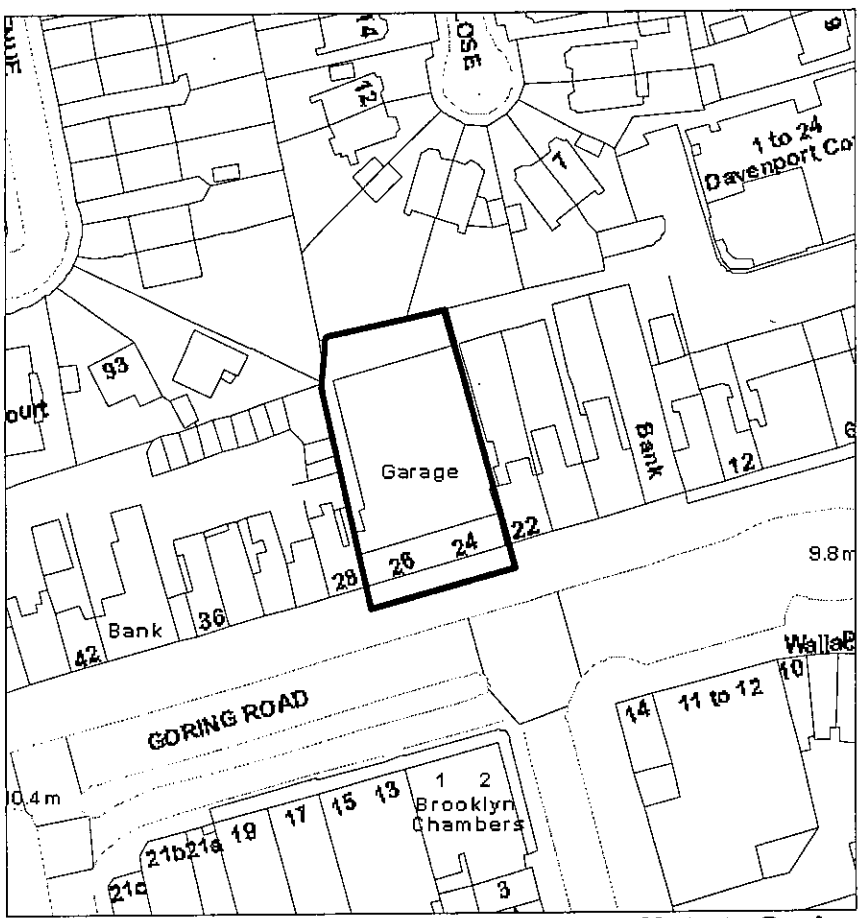
Location : Former Caffyns Motors 24-26
Goring Road, Worthing
Proposal: Change of use of existing floorspace (Sui Generis) to A1 Use Class.



Note to Scale

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1. THE PROPOSAL AND THE SITE

This is a full application to change the use of these vacant premises to A1 retail.

The site is the former Caffyns car dealership premises, located on the north side of Goring Road in the defined core of the Goring Road District Centre as designated in the Saved Worthing Local Plan. Caffyns vacated the premises in March 2010 after a long period of occupation and used the premises for the sale of cars with ancillary servicing. This use does not fall into any defined Use Class and therefore is termed "sui generis". There is no significant planning history.

The Goring Road District Centre is a lively and thriving and medium sized retail centre set on the busy A259 serving the employment uses in the centre and surrounding residential suburbs. It is served by several bus routes.

The application premises comprise, firstly, a triple fronted unit spanning the width of the commercial ground floor frontage of a three storey, purpose- built, inter-war block; secondly, their open forecourt abutting the pavement where cars were formerly displayed and providing a vehicular access at the western and eastern ends; and thirdly, a rear service yard, accessed off a long private drive running eastwards at the back of the shops and leading to Elm Grove, together with a narrow service area on the rear western flank.

On the upper floors are flats which are accessed independently from two separate entrances on the western and eastern wings of the commercial premises. The rear of the building contains a roller shutter door for servicing. The submitted plans give the total site as 0.1 hectares in size.

The site is flanked to the west and east by similar, purpose built shopping parades with flats above and is faced by other shops, including the Co-op, also with flats above. The forecourt is deep (5 metres) and the adjacent pavement is only slightly shallower. The pavement incorporates street furniture including lamps, trees (closest is some 3 metres to the west of the site), service kiosk unit and bollards. There are two crossovers serving the site and double yellow lines in the carriageway. A cycle lane runs adjacent to these in the carriageway.

At the rear (north) of the premises are the back gardens of the houses in Douglas Close and on the western flank is the back garden of the bungalow at 91 Bruce Avenue and a garage block. The boundaries are marked by substantial brick walls and a timber fence, with some semi mature tree planting. The large and windowless tail of the building abutts the boundary with the adjacent block to the east.

No physical works to the premises are contained in the application drawings and the application refers to necessary changes to the shopfront (including proposed ATM) and new signage being the subject of separate subsequent applications.

The application is, nevertheless, supported by an illustrative plan showing the premises split into two units; the larger (404 sq metres internal floorspace) to be occupied by Tesco Express and sited to the east and the smaller (263 sq metres internal floorspace) placed on the west and to be let to an unspecified A1 user. The submitted plans also illustratively show a timber fenced compound at the rear of the premises on the east side where the allied refrigeration condenser (one) and air conditioning plant (three) would be sited. Details of the potential plant and impacts are contained in supplementary supporting "Noise Impact Assessment" and subsequent elaborative material.

Additionally, the proposal is supported by a plan showing a new loading bay around 22.5 metres long (following revisions) and tapering out into the carriageway and 2.7 metres deep to be built into the existing pavement in

front of the premises, leaving a residual pavement width of 3.3 metres (narrowing to 2.2 metres adjacent the service kiosk). Bollards would be placed at the back edge and the existing cycle lane would continue to run adjacent to the carriageway. The loading bay is intended to be a facility available for public use and adopted by the Highway Authority and to provide for all deliveries and collections, including refuse to the premises. The existing front vehicular accesses would be closed off but short stretches of dropped kerbs retained to aid delivery access. Refuse would be stored on site within the proposed rear bins store and collected on a weekly basis from the loading bay.

The proposal is also supported by a Planning Statement, Transport Assessment and Stage 1 Road Safety Audit and Designers' Response. These, variously, show an expected three deliveries per day, supplemented by 5 deliveries per week, spread between 7am and 1pm weekdays and between 10 am and 2pm on Sundays. In terms of traffic attraction, the applicants expect the vast majority of visitors to the store to be by means other than the car, based on the experience of the Tesco Express at South Farm Road ands no off street car parking is, accordingly, provided.

Finally, following negotiations, the application is underpinned by a draft unilateral undertaking which covenants the owners to carry out a "before" and "after" parking survey in the local area and bond a sum of £5000 towards any necessary remedial parking control measures.

The proposal would employ the equivalent of 33 full time jobs and would open from 7 am to 11 pm on all days.

2. APPLICANT'S SUPPORTING PLANNING STATEMANT (RELEVANT EXTRACTS)

"It is considered that the development proposal raises the following three issues:

i) The acceptability of the change of use of the permitted floorspace;

ii) The acceptability of the principle of A1 floorspace;
iii) The impact of the proposal on the highway;

4.2 These considerations are addressed in the following paragraphs.

i) Change of Use of the Permitted Floorspace

4.3 As detailed above the current permitted use of the floorspace is as a car dealership (Sui Generis Use Class). Having reviewed the development it is noted that there are no saved policies within the Local Plan which would resist the loss of this car dealership floorspace within a defined district retail centre. Given that the Core Strategy has yet to be formally examined, it is considered that national planning guidance contained within PPS4 is therefore the most relevant policy guidance.

4.4 It is considered that the proposed use(s) is consistent with the key aims of PPS4 which seeks to promote the vitality and viability of town and other centres, through the development of main town centre uses being focused within existing centres, such as the Goring Road District Centre. Policy EC10 of PPS4 sets out that local planning authorities should adopt a positive and constructive approach towards planning applications for economic development, with such applications being treated favourably. Policy EC2 of PPS4 (part i) also notes that encouragement should be given at the local level for new uses for vacant buildings.

4.5 Further to this, saved Policy S11 of the Local Plan states that non A1/A2/A3 uses (such as the former use) will not normally be permitted within the retail core of a District Centre. Given that the site has been vacant for such a prolonged period of time, and taking into account that there is a further Caffyns car dealership a short distance from the site (No.341 Goring Road), it is considered that the loss of the unit will not have any adverse impact on the District Centre or surrounding area. Indeed, it is considered that bringing this vacant unit back into an active use will strengthen the vitality and viability of the centre.

ii) Principle of A1 Use

4.6 The Local Plan Proposals Map confirms that the existing unit is located within the defined Goring Road District Centre, with the Proposed Core Strategy confirming this continued designation. It is considered that the proposed change of use of the unit to form two units of an A1 Use Class would be in compliance with saved Policy S11 of the Local Plan which supports and protects A1 uses in such centres. The existing unit has been vacant for a number of months and it is considered that bringing the unit back into an active A1 use will improve the vitality and viability of the existing centre.

4.7 The proposed use of the unit for A1 use is also considered to be compliant with emerging Policy 6 (Retail) of the Submission Core Strategy. The proposed floorspace of the units will be of a scale appropriate to the retail centre, with the proposed Tesco Express being of a similar floorspace to other existing supermarkets that are located within the retail centre (Iceland and Co-op). Tesco Express stores serve a very localised catchment; therefore the majority of the customers to the store will either be existing users of the area for work purposes or local residents who will walk, and this will ensure that the use does not adversely impact on the vitality and viability of other nearby centres. Whilst the end user of the second unit is currently not known, it is considered that by virtue of its smaller size it will not have any adverse impact.

4.8 It is considered that the proposal is compliant with Policy EC4.1 of PPS4 which seeks that local planning authorities should promote competitive town centre environments and provide consumer choice by: supporting a diverse range of uses; planning for a strong retail mix; and by recognising that smaller shops can significantly enhance the vibrancy of a centre.

4.9 Using part of the existing unit as an Express store will have no detrimental effect on the local environment quality by way of smells, noise or increased late-night activity. The proposed store will be open between the hours of 0700 and 2300. These hours are proposed to provide a service to local residents with this being in accordance with emerging Policy 6 which seeks accessible and convenient local shopping facilities to meet the day to day needs of residents. Tesco operate a 'good neighbour' policy to ensure its stores do not harm the amenity of the area in which they are located.

4.10 Accordingly the introduction of the proposed use at the site will have a positive impact on the functioning of the existing District Retail Centre and the character and appearance of the site and the surrounding area.

iii) Impact on Highway

Servicing

*4.11 It is proposed to deliver to the proposed units from a proposed new loading bay outside the premises on Goring Road, as detailed within the accompanying transport statement. The delivery solution proposes the removal of some of the existing pavement along Goring Road in front of the unit (refer to drawing no. 1009-68 -**Appendix B**), to provide a new loading bay. Deliveries will then be taken from this loading bay along the pavement, entering the site from the front of the proposed units. The delivery solution proposed is a result of pre-application discussions between Transport Planning Associates and the Council's highway department and it has been agreed in principle that this would be the most appropriate solution and would not be detrimental to highway safety.*

4.12 With regard to the frequency and number of deliveries proposed for the Tesco Express element of the proposal, table 1 of the accompanying Transport Statement details the proposed delivery timetable of the store.

4.13 The Transport Statement also details how the majority of deliveries will have a turnaround time of 40 minutes as a maximum, the deliveries by third parties are much quicker e.g 10 minutes (newspapers, cigarettes, bread and milk)

4.14 This delivery schedule is common for an Express store and would not affect the amenity of the residential properties above 24-26 Goring Road, which is currently a heavily trafficked road, particularly at peak hours.

Access

4.15 National and local planning policy states that retail developments must be accessible by varying means of public transport, as well as by foot, to serve a local catchment area and to reduce the number of journeys by car.

4.16 The nature of a Tesco Express store is to serve a local catchment with 'top up' convenience goods and will serve local residents as well as workers

within the area. It is considered that there will be limited use of the Express store by persons from outside the centre, i.e. persons making a conscious journey to the store for convenience goods provision.

4.17 It is considered that the site is accessible by public transport (as detailed in the accompanying Transport Statement) ensuring that users will have equal and convenient access to the store. The provision of 6 cycle parking spaces will be made, in the form of three Sheffield type stands, provided at the front of the unit on the public footpath. The proposed Express store therefore offers a sustainable local shopping need for residents, negating the need for journeys out of the local area, in keeping with relevant planning policy.

5.0 Conclusions

This statement has demonstrated that the proposed change use to A1 at the application site is in accordance with national and local planning policy, with its conclusions being:

- *the application will bring a vacant unit back into a 'live' use, which will help to strengthen the vitality and viability of the existing District centre, as well as providing a valuable commodity to local people by meeting convenience shopping needs;*
- *the application site is within a designated district centre as detailed within both the Local Plan Proposals map and emerging Policy 6 of the submission Core Strategy, where the Council protect and encourage A1 uses to ensure the provision of day-to-day shopping requirements of a local catchment area;*
- *the existing use as a car showroom is not protected by any specific saved or adopted planning policy in Worthing's development plan, and it is considered that the proposed change of use is consistent with the key aims of PPS4 which seeks to promote the vitality and viability of town and other centres, through the development of main town centre uses being focussed within existing centres;*
- *the proposal will provide a safe and suitable servicing solution for the units with the creation of a new loading bay directly outside of the premises (Appendix B). This will allow for delivery vehicles to park off the main highway ensuring there will be no adverse impact to the highway network, allowing for goods to be delivered safely via the front entrance of the propose units.*

5.2 It is considered that the use of the ground floor unit at 24-26 Goring Road as A1 units is in keeping with both local and national policy and we therefore respectfully request that the Council grant permission to the proposed development."

3. CONSULTATIONS

The Highway Authority has made several comments on the evolving scheme. The latest relevant comments are as follows

"With regards to the principle of development, the site lies within an existing retail/residential area. hence the in highway terms the principle of development would be acceptable. The current proposal seeks to subdivide the existing, albeit it currently unoccupied car showroom, to provide two retails units of 400sqm and 271sqm respectively. The larger of the two units is intended to be occupied by a food retailer.

It is noted that no dedicated car parking is provided for the existing use, nor can be provided for the proposed retail units. Customers of the units will have to make use of existing car parking provisions, with parking on Goring Road in the immediate vicinity restricted between 0830 and 1800 with limited waiting of 1 hour and no return within 1 hour, which should ensure a high turnover of parking spaces. There are further no waiting at anytime restrictions along on the northside of Goring Road within the immediate vicinity. There are some unrestricted parking spaces available on the south side of Goring Road, the turnover of these does appear to be regular and whilst the A1 units may place some additional demand upon these, the use would not greatly alter with short duration stays anticipated. It should be noted that there are enforceable parking restrictions in place to ensure that parking does not take place in locations that would be detriment to highway safety.

The site is also sustainably located within an existing retail/residential area, with there being an expectation for the food retail store to be used by local residents to undertake top up shopping. Given the presence of other retail uses close by there would be linked trips between the store and other functions in the area and the food store would not be expected to generate a high number of primary vehicle trips. Whilst no highway safety concerns would be raised in relation to the operation of the food retail store or the proposed A1 unit, the Planning Authority may wish to consider the implications of this proposal upon on-street parking.

Provision is made for servicing by way of a proposed lay-by. Comments have previously been made in relation to the layout of the lay-by and the need for a Stage One Road Safety Audit. A Safety Audit has been undertaken. This would have considered amongst other things, the safety implications of the use of the lay-by by delivery vehicles, the consequential narrowing of the footway and the use of the cycleway along Goring Road. The Audit has raised no problems with the proposal hence there are no safety grounds to resist this element of the proposal. It is unclear if the previously proposed alterations to the dimensions of the lay-by have been incorporated or not, perhaps the Planning Authority could confirm. If a revised plan has not be provided, a suitably worded condition should be applied to any permission to secure plans and details of the delivery lay-by according with the recommended dimensions. The lay-by will require the provision of a Traffic Regulation Order to ensure that this is used only for loading and unloading by goods vehicles. Whilst the TRO will restrict the use, the lay-by can still be used by all delivery vehicles whether they are visiting the application site or not. The Applicant will need to provide the lay-by by way of a Section 278 Agreement and for the TRO to be provided as part of this. Relocation of other street furniture maintained by WSCC as well as the closure of the two existing

accesses would also be undertaken by way of this Agreement. The TRO will be subject to the statutory process. A condition is recommend to ensure that the lay-by is provided prior to either unit opening.

It is also suggested that a Servicing Management Plan is secured via condition to detail servicing arrangements (deliveries as well as refuse collection) to set out precisely servicing arrangements and timings.

Details of the cycle parking should be secured via condition. To confirm, there would be no highway objection to this proposal. The Planning Authority may wish to consider on-street parking arising from this proposal.

CONDITIONS

No retail unit, hereby approved, shall be occupied until such time as the lay-by has been provided in accordance with plans and details submitted to and approved in writing by the Local Planning Authority. The lay-by shall be no shorter than 20metres in length.

Reason - In the interests of highway safety.

No retail unit, hereby approved shall be occupied until such time as a Servicing Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall detail servicing arrangements, including the number and timings of deliveries, and include details of refuse collection.

Reason - In the interests of road safety.

No retail unit, hereby approved, shall be occupied until such time as cycle parking has been provided in accordance with plans and details submitted to and approved in writing by the Local Planning Authority

Reason - To encourage the use of sustainable transport to the proposed retail stores."

In response to the applicants offer to conduct a parking survey and hold a fund for any consequential remedial measures the Highway Authority further comments that,

"the only comment I would have regarding the parking survey is to ensure that the parking surveys are undertaken at appropriate times, which should include Saturday lunch time where there will be demand for on-street parking as well as demand on local streets from residents, as well as at another appropriate time which I would suggest should be representative of normal conditions, i.e. not in the peak or at school dropping off/picking up times, but a weekday lunchtime or early afternoon period for example.

I do note that Tesco are willing to fund further measures to prevent parking in the local area. Any new restrictions/TROs will need to be the subject of a statutory consultation period. To a certain extent, I would expect the peak

operating times of the Tesco store not to conflict with demand from local residents.

With regards to the service management plan, the servicing arrangements included are only indicative, hence there would be some benefit to it actually being clarified what delivery arrangements are anticipated. I don't think there's any reference to refuse collection arrangements either so this could be tied up within this too.

The **Executive Head of Health, Housing and Community Safety** comments that

"I can confirm that the consultants methodology and predictions are logical and would indicate that the nearest residential premises in Douglas Close would theoretically be adequately protected with the proviso that the close boarded enclosure is constructed as per consultants criteria and that there is a condition to state that :- 'the 2 No Mitsubishi heavy FDCA 501 HESR Sales Floor AC Units and the 1 No Mitsubishi Heavy SRC 28 CD-5 Cash office AC units shall operate between 07:00hrs and 23:00hrs only, on any day'.

I would point out that the consultants report models sound from only one refrigeration condenser, that would remain in operation 24/7, although there are two shown on the plan F9D10-003A (00) 34.

Clearly, noise from internal refrigeration would run all night and any internal A/C ducting should be isolated from the structure to minimise structure borne noise and vibration particularly at night. Therefore if this has not already been done - proposals will be required. Whilst there is unlikely to be people noise at night, these 24hr noises must be considered.

Sound insulation between floors - we require details (to safeguard flats above*)"*

Following receipt of further detail on plant and noise insulation between the proposed Tesco store and the flats above, the Executive Head of Health, Housing and Community Safety has indicated the proposals are generally adequate, though the isolation of plant/ducting from the structure (internal/external) will need to be addressed by condition. Appropriate conditions are necessary on siting, design and operation of plant and allied ducting and technical standards and mitigation; noise insulation between the proposed units and the flats above; trading hours and refuse collection.

Sussex Police Crime Prevention Officer comments that :

"The level of crime within this location is average when compared to the rest of Sussex and I do not have any concerns with the proposal. However I was disappointed to note that the Planning / Design and Access Statement submitted in support of the application, failed to mention any crime prevention measures to be considered in the design and layout. Guidance on Information Requirements and Validation (CLG 2010), Section 6, Paragraph

132, states, "PPS1 makes clear that a key objective for new developments should be that they create safe and accessible environments where crime and disorder or fear of crime does not undermine quality of life or community cohesion. Design and access statements for outline and detailed applications should therefore demonstrate how crime prevention measures have been considered in the design of the proposal and how the design reflects the attributes of safe, sustainable places set out in Safer Places – The Planning System and Crime Prevention".

In an endeavour to reduce the opportunity for crime and the fear of crime, I offer the following comments.

To assist in protecting the shop front, including the ATM area, I recommend anti ram bollards be fitted.

Doors and windows to comply with LPS 1175 SR2 and be laminated.

A monitored Intruder alarm system to be fitted.

Consideration to be given for the fitting of an external and internal CCTV system.

Recycling and waste to be locked away securely within a store to reduce the risk of arson.

I am confident that the applicant being a respected high street retailer, the ATM installation will be fully in accordance with the industry standards.

I have concerns for the amenity not only of the residents directly above the premises but also for the neighbouring residents, who would be subjected to additional noise from the hours of 07:00 – 23:00 daily from pedestrian footfall, delivery vehicles and additional vehicles from visitors to the store.

There is also the continual 24/7 noise of the refrigeration machinery and associated generators required to facilitate a retail store such as this, to consider.

There is no parking along Goring Road at present due to double yellow lines either side. Vehicle bound visitors to the store would either have to park in the surrounding roads or illegally park in the main road, causing unauthorised and unnecessary obstructions to existing traffic. An unloading bay for the store's sole use is proposed outside the store. There would need to be strict control measures in place to ensure the correct and proper use of this facility. Lack of control could result in customers parking within it, resulting in the delivery vehicles being unable to park and unload, thus causing a disruption in the high street. There are a maximum of 3-5 deliveries proposed each day.

The Safer Places document from the ODPM, (2004) offers a good practice guide for the creation of well designed and safe places through the planning system. The Crime & Disorder Act 1998 heightens the importance of taking crime prevention into account when planning decisions are made. Section 17

of the Act places a clear duty on both police and local authorities to exercise their various functions with due regard to the likely effect on the prevention of crime and disorder. You are asked to accord due weight to the advice offered in this letter which would demonstrate your authority's commitment to work in partnership and comply with the spirit of The Crime & Disorder Act."

Council Arboriculturalist

"I can confirm that the proposed new access is an acceptable distance from the adjacent highway tree, London Plane, approximate height 11m, spread 10m. The plans indicate a distance of 3m to the new kerb which although is within the British Standard recommended minimum distance of 3.6m for a tree of this size is only over a small proportion of the root area. This young tree can tolerate this small amount of root pruning provided that any roots encountered are kept moist and cut cleanly at right angles to the direction of growth.

Some crown lifting on the east side will be needed to accommodate the high sided delivery lorries but this could be undertaken without excessively damaging the form or future potential of the tree which is a large tree at maturity with the capacity for a high clean bole."

4. REPRESENTATIONS

At the time of writing 40 separate representations of objection from members of the public have been received mainly from the surrounding residential area. Representations from the Ilex Conservation Group, Worthing Society and the Goring–By-Sea Residents Group have also been received objecting to the proposal.

An objection has also referred to a 300 signature petition against the proposal but no such petition has yet been received, whilst the local newspaper reported a demonstration outside the proposed premises on Saturday 12th March.

A separate petition (by way of 12 standard letters) of support (though no addresses were given in 9 cases) and two bespoke letters and one with qualified support.

Support for the application was on the following grounds:

i) Property is located in the heart of the existing Goring Road retail area;
ii) The proposal will help maintain and strengthen the vitality and viability of the area and also act against the loss of trade to out of town shops and supermarkets.
iii) Adding more shops helps competition and will mean a wider range of goods and services are available which is to the benefit of local residents;
iv) Keeping the area thriving is important for local residents in particular those who do not have easy access to a car and are reliant on being able to access local shops on foot an by bus.

v) Positive impact on the area.
vi) Appropriate use for a vacant site

Objections cited are summarised as follows:

vii) No need for another Tesco in the town or this centre with its existing supermarkets (29 supermarkets within 2 mile radius). Another Tesco does not increase competition as it dominates the grocery market nationally and locally with shops nearby at South Farm Road and Rectory Road. No need for more big corporations.

viii) Other local food stores will be put out of business and restricting choice for shoppers. Tesco express in Rectory Road closed the corner shop in Church Road; the Tescos opposite Aldsworth Avenue place unfair competition on the Londis store and the Chapel Road Tescos also places unfair pressure on other businesses.

ix) There is already a selection of shops with a good variety of foodstuffs with a range of prices that serves the area well and the proposal would simply undermine these without generating additional business. The row already has one recently closed dress shop and another is in the process of closing.

x) Is there a tie up between Tesco and the Council? Only need is for a fishmongers and bakers.

xi) Premises would better be used as a restaurant or specialist facility that will bring more footfall into the area.

xii) New off license is not needed with five already and a small pub. Concern over selling cheap alcohol in a residential area.

xiii) Harm to character of the Neighbourhood Centre, its independent traders and community of West Worthing. Site would be better put to use as 3 independent units.

xiv) Tesco claim to generate jobs but smaller stores jobs will be lost and those employed may not be local.

xv) Proposal will aggravate already difficult parking situation in the centre. Existing traffic and parking controls are frequently ignored and there are no parking facilities on the north side of Goring Road. The council should prevent hazards happening rather than looking for a cure too late.

xvi) Concerned how deliveries in front loading bay will be managed and will add to congestion and problems in the area, particularly surrounding residential areas and area to the north where Elm Grove First School is located and George V Avenue.

xvii) The proposal will be unsafe. Loading bay will narrow the footway at its busiest and present a danger to pedestrians, particularly the many elderly people and disabled people (some using motorised buggies); reduce the number of parking spaces; and create a dangerous junction area and traffic congestion on a busy road and is close to pedestrian crossing. Access along the many emergency vehicles which use Goring Road will be impeded. Loading bay will also be abused by parking for quick drop off or pick up causing congestion. Illegal and dangerous parking will endanger a well used cycle route.

xviii) The centre has limited off street parking and Goring Road is a busy route and additional pressure will be placed on parking in the centre

on-street parking by customers in surrounding residential streets, particularly near Elm Grove and Pembroke Road where already major problems with vehicles blocking drives and creating highway dangers and parking enforcement difficulties. Environmental study required to appraise the impact and Double yellow lines needed across each driveway and other controls funded by Tesco to alleviate problems.

xix) Opening hours will cause disturbance to flats above. These need to be restricted. Increased heavy goods vehicle will create disturbance.

xx) Inadequate consultation.

xxi) Lack of clarity over the split of the premise into two units; means of access; use of forecourt to store rubbish and cargo trolleys ;

xxii) Will lower the tome of the immediate environment.

xxiii) Proposed trading hours conflict with restrictions on Sunday trading.

xxiv) Damaging effect on the safe and pleasant footway from building the loading bay.

xxv) What happens to Tesco deliveries if loading bay is already occupied?

xxvi) Claims that most visitors to the new Tesco store will arrive on foot are misconceived as comparison is with South Farm Road where there is no convenient car parking. Many people drive to Goring Road centre.

xxvii) Need for time controlled parking as in Findon Road centre.

xxviii) Loading bay will aggravate safety of users of the adjacent cycle lane.

xxix) Note loss of some of the street furniture required.

xxx) Increased litter.

xxxi) Will lower house prices locally.

Ilex Conservation Group comment as follows:

xxv) Object to proposal. Goring Road is a Broadway not simply a row of shops which has retained its character 50 year after it was built where pedestrians can move freely and there is a row of mature trees. The proposal would convert the pedestrian concourse to a quasi –industrial use, to the detriment of the parade and its integrity. Tesco should reconsider the proposal in view of its Good Neighbourhood Policy.

Goring–By-Sea Residents Group comment as follows

xxxii) The shopping centre is well served by 3 supermarkets as well as specialists food outlets, green grocer and bakers. Tescos have not justified the need for their store.

xxxiii) Potential impact on the Mulberry centre as well as other traders in Goring Road centre.

xxxiv) Occupying vacant unit is insufficient justification for an inappropriate use.

xxxv) Loading bay's location is opposite a busy junction and deliveries will coincide with rush hour.

xxxvi) Justification for proposed parking provision is unrealistic.

xxxvii) Have Tesco studied potential traffic demand at the centre? South Farm Road Tescos is an inappropriate comparison as this building is located at a roundabout, close to a level crossing and the adjacent streets are narrow and congested. Morrison's and Lidl provide car parks.

xxxviii) Whilst welcome re-use of the premises, Tesco has not shown a demonstrable need or that the store will contribute to viability and an alternative use is sought.

Worthing Society comments as follows;

xxxix) The Worthing Society organised street tree planting to enhance the precinct and these trees have matured and contribute to the shade in the summer months.

xl) Strongly object to loading bay which is intrusive and detrimental with genuine likelihood of damage to the nearest tree.

xli) There is inadequate servicing on this side of the street.

xlii) Although Caffyns did park cars on the forecourt, this did not extend to the pavement. The lay by is both dangerous and undesirable.

The applicants report some pre-application consultation undertaken by themselves but give no details of any feedback received.

5. PLANNING ASSESSMENT

The principal issues raised by this application are:

i) The loss of Car dealership use and principle of retail use and impact on District centre, including competition.
ii) The impact on living conditions of neighbouring residential occupiers,
iii) Parking, servicing and access impacts
iv) Visual impacts

As such the proposal should be mainly considered against Saved Local Plan Policies RES7, RES12, H18, BE1, TR9, and S11 (all of which are proposed not to remain when the Core Strategy is adopted) and, the now reinstated South East Plan. Policies SP3; CC1; CC2; CC3; CC5; CC6; CC7; T1; T2; T4, NRM10; TC2; RE3; BE1; SCT1; and SCT4 are most relevant. The Secretary of State has commented that his intention to abolish the Regional Spatial Strategies in the forthcoming Localism Bill is, nonetheless, a material consideration.

Quite apart from this, The Core Strategy has now assumed significant material weight, with the Inspector's report published and the Strategy accepted as "Sound". This will be considered for adoption by the Cabinet on 21st March and Full Council on 12th April, and if subsequently adopted, would form part of the Development Plan. Policies 4 and 6 are most applicable. Finally, Government guidance/policy is particularly relevant in the form of Planning Policy Statement 1: Delivering Sustainable Development and Climate Change Supplement; PPG13 Transport; and PPS4: Planning for Sustainable Economic Growth,

i) The loss of Car dealership use and principle of retail use and impact on District centre, including competition.

Core Strategy Policy 6 has been modified by the Inspector (following the recent Public Examination) to effectively limit the employment uses protected under the policy to B1 (light industry/office), B2 (General manufacturing industry) and B8 (storage and distribution). The previous car dealership use may be best classified as a "sui generis" use in planning terms, that is a use of its own, not falling into any of the formal classifications under Planning Regulations because it is a mix of uses - retail (albeit non-A1) and B1 light industrial (in respect of the servicing element). It is therefore neither a B1, B2 nor B8 use and not formally protected under this policy, as modified.

The modified Policy will be considered shortly by Full Council as part of its wider consideration of the Inspector's report on the Core Strategy and binding modifications and whether to adopt the modified Core Strategy. Failure to adopt would mean the entire Core Strategy would fall.

It is worth noting that the unmodified version of the policy protected not only B1, B2 and B8 uses but also "other employment generating uses, as appropriate". Whilst this would include "sui generis "car dealerships due to their commercial character and the employment generated, it would also include the proposed A1 retail use for the same reason. As such no loss of employment use would occur.

In objective terms, no direct harm to the employment base of the town would arise in any event because of the 33 jobs generated by the proposal. Although, objectors have raised the issue of potential net reductions in jobs through impact on local, independent shops, there is no clear evidence that this would be the case here with such a modestly sized store in a town centre.

Turning to The South East Plan, policy here is analogous to the Core Strategy policy, aiming to safeguard accessible and well located industrial and commercial sites where there is the good prospect of employment use. This test is also met for the same reasons as above.

PPS4 is similarly generally supportive of the proposal indicating in Policy EC10.1 that *Local planning authorities should adopt a positive and constructive approach towards planning applications for economic development* (which includes main town centre uses such as retail). *Planning applications that secure sustainable economic growth should be treated favourably.* This policy is complemented by Policy EC10.2 which applies broad general strictures on development, as well as requiring the assessment of *the impact on economic and physical regeneration in the area including the impact on deprived areas and social inclusion objectives and the impact on local employment.* These are addressed elsewhere in this report. In particular the additional assessment is considered in the context of impacts on Goring Road centre itself, set out below.

The policy framework for judging the acceptability of the proposal in retail terms is provided by Saved Worthing Local Plan policy S11; Core Strategy Policy 6 and PPS4: Planning for Sustainable Economic Growth. Both the Local Plan and Core Strategy Policies designate the site as in The Goring Road District Centre and the site is classified separately as in the Core Zone

of the centre under the Local Plan, though these designations have yet to be reviewed and classified under the Core Strategy (ie primary and secondary zones).

The broad approach of the above is to direct town centre uses to the town centres, as appropriate, and protect and enhance the vitality and viability of the Centres, with the particular aim of strengthening core retail areas. Neither Local Plan Policy S11, nor PPS4 in any of its Development Management policies directly address the situation of change of use from non-A1 retail use (i.e. car dealership) to A1 retail use (as proposed) in a designated centre, as applies here. However, it is clear from the broader context that such a proposal is entirely compatible with thrust of both the Local Plan and National policy, introducing an A1 retail use into the heart of the centre, where previously there was anomalous interruption of the A1 retail frontage. PPS4 does not require a needs or sequential test or impact assessment for such a proposal due to its A1 retail use, its modest scale and its location in a designated centre.

The Core Strategy specifically requires development in the District Centre *to meet the needs of the area served by the centre, is of a scale appropriate to the centre and will not adversely impact on the vitality or viability of other nearby centres will be allowed.*

Assessed in relation to this test, the recent update of the DTZ study prepared for the Local Development Framework assessed retail capacity in the town in relation to convenience goods (e.g. type of goods sold at Tesco Express) for District and Medium Size Local Centres such as the Goring Road District Centre. It concluded as follows:

"Modest convenience goods floorspace capacity is evident within the Borough, and will grow as population and per capita expenditure increase over the study period to 2026. Whilst the provision of the replacement larger Tesco Extra at West Durrington means that there is no immediate and pressing requirement for further food store development in the Borough, capacity will exist at 2016 and beyond for some additional convenience goods floorspace."

Clearly some incursion into such convenience goods capacity would occur from the application. However, this is not significant since the incursion is minor in global terms and the DTZ study forecasts are strategic in nature with limited value at the scale of this application. Moreover, overall retail floorspace capacity would not be affected by the application as the new convenience goods floorspace provided at the Tesco Express would simply replace the previous car dealership floorspace, which is classified as comparison goods retail floorspace in the study.

That said, the proposal would boost the centre's offer and help prevent any leakage of expenditure in the catchment area to out-of-centre retail outlets, particularly supermarkets. It is of a modest scale in itself and compared to the overall floorspace of the centre (3,606 sq ms net floorspace), the increase in A1 retail floorspace is not unduly large (11%). The centre appears to be lively

and vibrant with 73 units, around two thirds of which are A1 retail, according to the last survey in 2009. Vacancies appear to be few, despite the recession. In these circumstances the impact should not be harmful in terms of vitality and viability, infilling a significant gap in the core retail frontage by high footfall uses and would likely draw additional custom to the centre. The investment the proposal represents and return of a vacant, very prominent triple unit to positive use would also contribute towards regeneration. It would reinforce the designated pattern and hierarchy of retailing as represented by designated centres, with all the allied economic and sustainability benefits. Being in an established centre where many other facilities are available or closeby (including school), easily accessible on foot by its residential catchment population and well served by public transport, the proposal is socially inclusive. As such it also meets the additional tests of Policy EC10.2 set out in PPS4 referred to above.

Quite apart from the above, the potential competition impacts of Tesco as the user of the larger of the units has been raised by many objectors. Whilst the planning system normally focuses on the use, rather than the user, allied competition impacts on town centres may still be a material consideration, if one which has little weight in the present policy framework. Competition impacts are accordingly assessed below.

The governing framework here is principally policy EC4.1 in PPS4:

Local planning authorities should proactively plan to promote competitive town centre environments and provide consumer choice by (inter alia) *:*

- *supporting a diverse range of uses which appeal to a wide range of age and social groups, ensuring that these are distributed throughout the centre,*
- *planning for a strong retail mix so that the range and quality of the comparison. and convenience retail offer meets the requirements of the local catchment area, recognising that smaller shops can significantly enhance the character and vibrancy of a centre,*
- *taking measures to conserve and, where appropriate, enhance the established of. character and diversity of their town centres*

It is apparent that this policy is primarily concerned with promoting diversity and competition at the plan making stage and focuses on the mix of uses and sizes of unit and physical management of centres, rather than controlling development at the application stage. It does not address the issue of who the business (user) is. The proposal does not conflict with the above policy's objectives, in any event as the proposal does not materially harm the diversity of use or unit type. In particular, a significant comparison goods sector would remain (close to 2000 sq metres net floorspace) with a high number of units and a reasonable range of unit sizes.

A proposal to introduce a competition test into national planning policy to prevent undue domination by supermarkets of an area was made by The Competition Commission in 2009 in its recommendations to the Government, following an extensive study of the issue. However, this was not translated into action in the subsequent PPS4 issued by the Government and would only

have applied to new stores or extensions in excess of 1,000 square metres floorspace, in any case. This is far below the current proposal.

Certainly, Tescos has a strong representation in the town, having opened up stores recently at South Farm Road, Rectory Road, Broadwater, Findon Road and Littlehampton Road, in addition to their large store in West Durrington. However, the existing centre in Goring Road and nearby centres contain other supermarkets run by the Co-op (including Alldays and Summerfields), Spa and Iceland as well Sainsburys, Waitrose and Morrison's in the town centre which provide direct competition. Indeed, planning permission was also recently granted for a new discount retailer (such as Lidl or Aldi) at The Causeway. There is no hard evidence to suggest that opening Tesco stores in the town's existing centres has significantly harmed the performance or character of these centres.

It must be firmly concluded therefore that it would not be possible to resist the application on competition grounds and there is no apparent precedent for such action, nationally. The Competition Commission and Government have separate powers to investigate local monopolies and take action under other legislation.

It may, nonetheless, be appropriate to limit by condition the size of any unit in the application to the 404 sq metres internal floorspace shown to prevent the creation of an unduly large supermarket in the centre.

The impact on living conditions of neighbouring residential occupiers

The new supermarket and independent unit would sit below the flats on the upper floors and the rear of the building and curtilage space adjoin the rear gardens of a number of houses. There is, therefore, scope for some impact.

However, the site lies in the heart of an established District Centre and was previously occupied by a car dealership, with allied servicing in an unrestricted permission. Apart from the flats above, the nearest dwellings are 15 to 20 metres away at their closest and mostly enjoy significant screening. The applicants have demonstrated to the satisfaction of The Executive Head of Health and Community Safety that the refrigeration condenser and air conditioning plant necessary to support the proposal can be acceptability accommodated, subject to appropriate conditions requiring details of the plant, its siting, hours of operation and mitigation measures to be submitted, approved and implemented prior to commencement of use.

The trading hours sought are quite broad. Though generally consistent with practice at the Tesco Expresses in other centres at Broadwater (7am to 11pm) and Findon Valley (6am to 10pm), they are appreciably longer than the previous use and the Co-op store in the centre and earlier than at South Farm Road where this was restricted by condition to an 8am start. Nonetheless, this is a town centre location where activity across a significant section of the day and into the night is expected and the extended trading hours sought meets a demand from some sections of the public as well as providing competition. Moreover, the controls recommended elsewhere on deliveries,

refuse storage, the refrigeration condenser and air conditioning plant and sound insulation to the flats are considered sufficient to protect residential amenity.

Compliance with Sunday Trading Hours (which apply to all shops with floorspace of 280 sq metres or more) is a separate matter. The sale of alcohol is common in such stores but is also controlled separately (by the Council) under the Licensing laws.

Servicing would be via the front of the shop and conditions to prevent deliveries prior to 7am and after 9pm and any deposit of waste in the rear curtilage beyond 9pm are proposed to prevent disturbance to adjacent residents at unsocial hours, with details of the storage facilities also controlled.

The potential for noise disturbance to the flat dwellers above from the use itself may also be controlled by condition to secure the quality of insulation proposed which is above that normally required under Building Regulations.

The allied ATM will be the subject of a separate application.

Parking, servicing and access impacts

The site is highly accessible by all modes and in the heart of a designated centre within the urban area. As such, the location is very sustainable.

A key feature of the scheme is the absence of any dedicated off-street car parking to serve the premises, though no on-street parking is directly lost. Certainly, the use would be far more intensely used than the previous car dealership and observation of the centre's functioning suggests many customers do travel by car whether stopping off whilst passing through or by making dedicated journeys to the centre and parking in and around the centre.

Whilst the applicants report that few customers are expected to arrive by car, this is based upon the experience of their South Farm Road store. Though similar in size and located in a Neighbourhood centre, its usefulness as a comparator is limited since, unlike the Goring Road premises, parking on-street is very constrained by the level crossing, roundabout and tight parking controls nearby and the narrowness of the surrounding roads. The catchment population and density of development is also different.

It is recognised that there is extensive on street parking in the Centre and free public car parks at Brooklyn Avenue (31 spaces) and Wallace Avenue (11 spaces), as well as substantial parking at Iceland's premises, ostensibly for customers but also regularly used by others. The precedent of the Co-op/Alldays is also relevant. These are similar in size to the current proposal (together 526 sq metres net floorspace) but also lack any dedicated off street parking. Additionally, the Highway Authority has not raised any objections on customer traffic and parking demand in terms of impact on highway safety/efficiency of the network. Finally, the modest size of the Tescos

proposed and the proximity of larger stores suggest that the limited number of car borne customers to the store would be "top-up" shoppers only.

Nonetheless, the representations by local residents and observation suggest that parking pressure from the centre regularly overspills into the adjacent residential streets. Particularly affected is the south side of Goring Road, around Elm Grove, away from the public car parks and any on-street controls. This reportedly causes annoyance to local residents and the blocking of driveways.

Against this background, some impact on the adjacent residential areas could be felt by overspill parking, and, as a precautionary measure, the applicants have agreed to undertake a suitable parking study of the proposal's impact by way of a "before and after" survey and set aside a bonded sum of £5000 for any necessary remedial measures. This is to be secured in the submitted draft legal agreement.

The servicing of the store at the front by means of the new layby is considered acceptable by the Highway Authority, following the revisions made to the design. It is far preferable to rear servicing in environmental and traffic terms. Bus laybys are already a feature of the centre which work satisfactorily and do not appear to result in any safety or congestion problems and the required Stage 1 Road Safety Audit has not raised any issues.

The cycle lane is retained by the carriageway in the same fashion as with existing bus laybys and sufficient residual pedestrian space is reserved, not counting the space in the forecourt of the premises themselves. The applicants have confirmed this forecourt would remain open (unlike the previous car dealership use where cars for sale were parked on the forecourt).

Provision of the layby prior to the commencement of use may be secured by condition and misuse of the facilities by customer parking would be addressed by suitable traffic regulations.

No customer cycle parking is shown and details may be secured by condition, noting that a large public cycle car park stands just to the east of the site on the pavement.

Control of servicing by means of a service management plan may be secured by condition in line with the request by the Highway Authority.

Visual impacts

No external physical changes to the premises are proposed as part of the current application, other than the layby. This feature is not out of place in the centre which is characterised by its wide boulevard, on street parking and several bus laybys. The lay by is, at 3 metres from the nearest street tree, and the tree is protected from straying delivery vehicles by the bollards around the layby, though some minor crown lifting may be necessary. No objections have been raised by the Council Arboriculturalist.

It is important that the forecourt is not marred by unsightly or long term storage of equipment such as metal cages, refuse awaiting collection or trolleys and this may be regulated by condition.

The rear plant would be screened by a fence, details of which may be controlled by condition.

6. CONCLUSION

The proposal would occupy some vacant premises in the heart of the centre to retail use and restore an otherwise significant break in the commercial frontage. Whilst strong local concerns have been expressed over the potential impact on the vitality, viability and character of the local centre by another Tesco Express in the town, the proposal is compatible with established retail and economic planning policy and would directly generate a significant number of jobs and contribute to the centre's offer. Competition impacts are dealt with separately by the Competition Commission. The premises are close to a number of homes but the supporting information submitted has demonstrated that the use could be acceptably accommodated by appropriate controls over such matters as the design and siting of the plant, trading and delivery hours and noise insulation. The site is sustainably located and although the Highway Authority does not anticipate any overspill parking due to the modest size of the premises and existing facilities, the applicants have agreed as a precautionary measure to monitor any impacts and contribute a sum towards any necessary remedial measures. The front servicing arrangements are safe and efficient and compatible with the character of the centre and leave adequate space for pedestrians and the retention of an open forecourt may be controlled by condition. Subject to appropriate conditions and the receipt of a completed unilateral undertaking to secure the parking study and bonded sum for any required remedial works, the proposal should be supported.

7. RECOMMENDATIONS

THAT THE DECISION IN THIS CASE BE DELEGATED TO THE EXECTUIVE HEAD OF PLANNING REGENERATION AND WELLBEING TO AWAIT THE COMPLETION OF A LEGAL AGREEMENT WITH A VIEW TO PLANNING PERMISSION BEING GRANTED SUBJECT TO NO NEW COMPELLING MATERIAL OBJECTIONS ARISING AND TO THE IMPOSITION OF THE FOLLOWING CONDITIONS

1. 5 years to implement planning permission.
2. Planning permission relates to approved drawings.
3. No individual unit shall comprise more than 404 sq metres internal floorspace.
4. Trading hours restricted to 7am to 11 pm on all days
5. Agree details of refrigeration condenser and air conditioning plant and allied ducting and enclosure and provide prior to occupation.

6. Refrigeration condenser and air conditioning plant shall operate only between 07:00hrs and 23:00hrs.
7. Deliveries restricted to the front and no deliveries prior to 7am and after 9pm
8. Details of the refuse storage facilities to be agreed and facilities provided prior to use and no deposit of waste in the rear curtilage beyond 9pm
9. Agree and provide noise insulation between units and flats above prior to occupation.
10. Provide layby and bollards prior to occupation.
11. Retain open forecourt and no stationing of metal cages, refuse awaiting collection, or trolleys.
12. Agree and provide customer and staff cycle parking prior to occupation.
13. Agree servicing management plan prior to occupation and implement thereafter.

AND THAT IN THE EVENT OF THE LEGAL AGREEMENT NOT BEING SATISFACTORILY CONCLUDED WITHIN A REASONABLE PERIOD, THAT THE APPLICATION BE DELEGATED TO THE EXECUTIVE HEAD OF PLANNING, REGENERATION AND WELLBEING TO REFUSE THE APPLICATION ON THE BASIS OF FAILURE TO PROVIDE FOR THE REQUIRED MEASURES.

8. BACKGROUND PAPERS

Letters of Representation by Members of the Public
Supporting statements by applicants
Observations of the Highway Authority
Observations of the Executive Head of Health, Housing and Community Safety
Observations of the Arboricultural Officer
Observations of West Sussex County Council (Highway Authority)
Observations of the Sussex Police
Observations of the Ilex Conservation Group, Worthing Society and the Goring–By-Sea Residents Group

30th March 2011