REF. NO. X/16/78941

PLANNING APPLICATION REPORT

DESCRIPTION/ ADDRESS	-	Variation to Condition 8 of Planning Permission Z/28673/11 to enable the sale of a range of child and baby related goods (including non-bulky goods) Unit 1B Bradbeers Retail Park Wellington Park Hedge End Southampton SO30 2QY

SITE VISIT DATE – 02/08/2016

ARE PLANS ACCURATE? - Yes

HAVE ALL NECESSARY NEIGHBOURS BEEN CONSULTED? - Yes

THE SITE AND ITS SURROUNDINGS

DESCRIPTION OF APPLICATION	As above, to enable occupation by Mothercare.
SITE AREA	1023.2 sq metres.
TOPOGRAPHY	Site slopes from east to west.
TREES	Some trees within existing landscaping.
BOUNDARY TREATMENT	Generally defined by planting. Landscaped bank to the south.
SITE CHARACTERISTICS	The application site comprises a retail park, (with the alterations and extensions approved for Unit 1a). The park is bounded to the south west by Botley Road and the south east by Tollbar Way. Access is now from the roundabout to the SE of the site. There are also pedestrian accesses from Botley Road and Tollbar Way. There are 2 primary structures on the site – the main terrace of retail units and a fast food outlet. The retail units contain substantial internal mezzanines and have a total floor space of 12,197 m2. Unit 1a is currently vacant (to be occupied by Smyths Toys) with the remaining units are currently occupied by Bradbeers, Harveys/Bensons, Ponden Home/Bedshed and CarpetRight. The supporting information accompanying the submission indicates that Ponden Home will soon vacant unit 1b and the store was holding a closing down sale when the site visit was carried out.
CHARACTER OF LOCALITY	This area of Hedge End is characterised by a range of out-of-town retail, food retail and commercial uses.

RELEVANT PLANNING HISTORY

REFERENCE	DESCRIPTION	DECISION
X/15/76771	Unit 1A: Variation of Condition 8 of planning permission F/14/75157 to enable the sale of toys, games, play equipment, entertainment products and associated goods (amended description).	Permitted May 2016

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RELEVANT PLANNING HISTORY

REFERENCE	DESCRIPTION	DECISION
F/15/77693	Reconfiguration of existing car park with associated landscaping and alterations to existing elevations	Permitted February 2016
F/14/75157	Unit 1A: Extension to side of existing unit at ground and mezzanine level, extension to existing mezzanine, ground floor extension to rear and alterations to car park (increase in total floorspace from 1072sq.m to 2509sq.m)	Permitted April 2015
U/12/71277	All units: Application for a certificate of lawfulness for a proposed use: The retail sale of all goods for up to 49% of the floor area in each unit. Pursuant to condition 8 of planning application Z/28673/11	CLOPUD not issued. Appeal allowed 2013.
U/11/69785	Units 1A and 1B: Application for a lawful development certificate for a proposed development: Expansion of range of goods sold beyond those specified in condition 8 of planning approval Z/28673/11	CLOPUD not issued, appeal dismissed 2012
X/11/68611	Removal of condition 7 of Planning Permission F/08/62428 and replacement with a phasing condition for alternative implementation timetable.	Permitted 2011
F/10/68320	Extension of time to implement extant planning permission F/08/62428 for amendments to external design of retail units, sub division of Unit 4, provision of new vehicular and pedestrian access and an enlarged roundabout, regrading and realigning of car parking and revisions to landscaping.	Permitted 2011
F/08/62428	Amendments to external design of retail units, sub division of Unit 4, provision of new vehicular and pedestrian access and an enlarged roundabout, regrading and realigning of car parking and revisions to landscaping.	Permitted 2008

REPRESENTATIONS RECEIVED

SOURCE	SUMMARY OF CONTENT
	No comments received

CONSULTATION RESPONSES

CONSULTEE	SUMMARY OF RESPONSE
Economic Development	I have read the application and make the following comment:

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CONSULTATION RESPONSES

CONSULTEE	SUMMARY OF RESPONSE
	1. We would not like to see vacant units on this site and generally defend the loss of retail space in the wider borough. 2. It does not appear to conflict with the town centre offer Therefore Economic Development have no objections to this application.
Transportation and Engineering	No objection. In terms of trip rates, the proposed goods fall within the same category as those the units use is currently limited to. As such it would not be anticipated that any increase in highway. movements will result.
West End Parish Council	Support. WEPC's Planning & Highways Committee raised no objection to this planning application.
Eastleigh BID Manager	No comments received.
Planning Policy	(Summarised) No objection. It is noted that the applicant has put forward revised wording to condition 8 of consent Z/28673/11 to enable the proposed occupier Mothercare to sell a wider range of goods from the apportioned floor area identified for the sale of bulky goods identified in the original consent. I would question how the condition can be effectively monitored if non-bulky items are included within the bulky category. Whilst it is regrettable the application is to widen the range of goods that can be sold from an out of centre location, in view of appeal decisions elsewhere, case law and the Councils recent decision on the adjoining property 1A (ref x/15/76771 to the south for Smyth's toys), on balance it is concluded that notwithstanding the policy concerns expressed there are significant material considerations that indicate that an objection would be very difficult to defend. In view of this, no objection is raised to the condition being amended as set out in the applicants letter (Savills 19th July) and that it is made specific to the operator and does not apply to future occupiers. In addition to the usual planning obligations, it is recommended that a developers contribution is negotiated to offset the stated impacts of trade draw from Eastleigh Town Centre through supporting its' vitality and viability through enhancing the public realm and supporting the Eastleigh BID.

POLICY CONTEXT

DESIGNATION APPLICABLE TO SITE
Within Built-up Area Boundary Within Designated Out-of-Centre area

DEVELOPMENT PLAN SAVED POLICIES, EMERGING LOCAL PLAN POLICIES AND SPD'S

Eastleigh Borough Local Plan Review (2001-2011), saved policies 34.ES, 35.ES, 45.ES, 59.BE,

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DEVELOPMENT PLAN SAVED POLICIES, EMERGING LOCAL PLAN POLICIES AND SPD'S

62.BE, 63.BE, 100.T, 102.T, 104.T, 134.TC, 190,IN

Submitted Eastleigh Borough Local Plan 2011 - 2029, July 2014, (the Submitted Local Plan) comprising:

- Revised Pre-submission Eastleigh Borough Local Plan 2011 - 2029, published February 2014; and
- Schedule of Proposed Minor Changes, submitted to the Secretary of State in July 2014

Supplementary Planning Document: Planning Obligations

NATIONAL PLANNING POLICY GUIDANCE

The National Planning Policy Framework, published in March 2012, replaces all previous Planning Policy Statements and Planning Policy Guidance. The guidance in the NPPF is a material consideration which must be taken into account when determining planning applications. The NPPF provides policy guidance which seeks to achieve sustainable development in the form of Government's view of Sustainable Development (contained within the NPPF as a whole).

Relevant sections of the NPPF include the following:

- Paragraph 14 - sets out a presumption in favour of sustainable development. For decision making this means (unless material considerations indicate otherwise) approving development proposals that accord with the development plan and where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless the adverse impacts of doing so would significantly outweigh the benefits.
- Paragraph 17 - sets out core planning principles. Planning should, inter alia:
  - proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs;
  - always seek to secure high quality design;
  - support the transition to a low carbon future;
  - encourage the effective use of land by re-using land that has been previously developed;
  - actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling.
- Paragraphs 18 and 19 - define the Government's commitment to securing economic growth and to ensuring that the planning system supports sustainable growth.
- Paragraph 23 - seeks to promote the vitality of town centres as the heart of their communities. Planning policies should be positive, promote competitive town centres providing consumer choice and allocate sites to meet retail and other needs. Appropriate edge-of-centre sites that are well-connected to the town centre should be allocated for town centre uses where suitable and viable town centre sites are not available.
- Paragraph 24 - states that "Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date local plan" noting that "When considering edge-of-centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre". It goes on to say that "Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale".
- Paragraph 26 - requires that retail development over 2,500m2 (or an alternative, locally-set, threshold) outside town centres should be accompanied by an assessment of the impact of the proposal on existing committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town

NATIONAL PLANNING POLICY GUIDANCE

centre and wider area …".

- Paragraph 27 - advises that where an application fails to satisfy the sequential test or is likely to have significant adverse impacts it should be refused.
- Paragraph 34 - states that "Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised".
- Paragraph 35 - goes on to say "Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people".

National Planning Practice Guidance

Where material, this guidance should be afforded weight in the consideration of planning applications.

Determining a planning application – To the extent that development plan policies are material, a decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise. Where the plan is absent, silent or out of date, an application must be determined in accordance with the presumption in favour of sustainable development.

Design – Good quality design is an integral part of sustainable development. Achieving good design is about creating places, buildings or spaces that work well for everyone, look good, will last well and adapt for the needs of future generations. Good design responds in a practical and creative way to both the function an identity of a place

Planning Obligations – these should mitigate the impact of unacceptable development in order to make it acceptable. Obligations should be directly related to the development and fairly and reasonably related in scale and kind.

Southampton and Eastleigh Retail Study 2011

As part of the evidence base for the Borough's emerging local plan, in 2010 the Council and Southampton City Council commissioned consultants GVA to provide advice on the need and capacity for new retail development across the area of the two authorities. The study included a detailed sample survey of household expenditure patterns across a defined catchment area.

The study projected an increase in comparison goods expenditure of 84% over the 2011 to 2026 period, but noted the anticipated growth in internet retailing, citing an increase to 7% of retail sales in 2010. Current indications are that this has already increased to 15% in a little over two years. Whilst noting the impact of the economic recession, the study anticipated a resumption of growth to previous levels in 2012. That can now be seen to have been very optimistic, with many commentators now predicting little growth in the economy for several more years.

On the basis of these forecasts, the study concluded that the retail demand would justify significant additional comparison goods retail floor space in Southampton city centre (although not as much as has been planned for in the City Council's core strategy) and some limited additional floor space in Eastleigh town centre.

Noting that Eastleigh town centre faced increasing competition from Southampton and Winchester city centres, and notwithstanding the anticipated increased demand, the study concluded that "we do not consider that there is any need to plan for additional out-of-centre floor space capacity" and that "the Council should consider carefully proposals for additional out-of-centre retail provision which could potentially undermine the vitality and viability of the town centre".

NATIONAL PLANNING POLICY GUIDANCE

In relation to 'bulky goods' retailing, the study concluded that "we have not identified any apparent need for additional bulky goods provision".

Having regard to the optimistic economic growth forecasts used in the study and the likely under-estimate of the growth in internet retailing, it would seem to be prudent to regard the anticipated growth in comparison goods expenditure in shops as unlikely to materialise and for extreme caution to be exercised in the consideration of proposals for additional out-of-centre retail floor space.

PUSH Spatial Strategy

Recognising that the economic position of the country had changed considerably since the SEP was prepared, the authorities within the Partnership for Urban South Hampshire (PUSH), including Eastleigh Borough Council, approved a revised economic strategy for the sub-region in 2010 which took account of the continuing recession and the reduced levels of growth that could be anticipated. The strategy noted that the retail sector and the jobs that it sustains are crucial to the sub-region.

The economic strategy was followed in October 2012 by the joint preparation and adoption of a revised spatial strategy for the area. The South Hampshire Strategy (SHS) is not a statutory plan but is a jointly agreed and approved framework to inform and support the preparation of statutory plans. It accords with the principles of the NPPF and fulfils a part of the duty to cooperate between authorities enshrined in the Localism Act.

The economic development and spatial strategies for south Hampshire seek to raise economic output by pursuing a strategy of development led by sustainable economic growth and urban regeneration. The SHS sets out employment floor space requirements for the individual authorities across south Hampshire based on the economic growth strategy forecasts. These seek to ensure that economic growth is not constrained by a lack of land for employment development.

The strategy maintains the principle of 'town centres first' as set out in earlier plans and in the NPPF. The strategy acknowledges earlier (2005) estimates of the need for additional comparison goods floor space in south Hampshire but notes that the economic recession and the growth of internet retailing point to a cautious approach to planning for future retail expansion and that "No need has been identified for any new out-of-centre shopping schemes or large-scale extensions to existing ones up to 2026. The role and regeneration of city/town centres should not be undermined by an expansion of such development". Policy 10, inter alia, states that "The expansion of out-of-centre retailing and leisure development will be restricted.

POLICY COMMENTARY

The above policies and guidance combine to form the criteria against which this application will be assessed.

COMMENT ON CONSULTATION RESPONSES

See below.

COMMENT ON REPRESENTATIONS RECEIVED

n/a

PLANNING OBLIGATION/CONSIDERATIONS

In accordance with the provisions of the following;

- National Planning Policy Guidance
- Community Infrastructure Levy Regulations 2010 (SI 2010/948) as amended by the Community Infrastructure Levy (Amendment) Regulations 2011 (2011/987)
- Saved policies 101.T and 191.IN of the Eastleigh Borough Local Plan Review 2001-2011
- Emerging policies DM23 and DM37 of the Revised Draft Eastleigh Borough Local Plan Review 2011-2029
- Supplementary Planning Document – Planning Obligations

Planning obligation contributions are sought to offset the impact of the development on local infrastructure. For this development contributions are sought towards Eastleigh Town Centre Mitigation. The applicant has secured the contributions through an appropriate Unilateral Undertaking.

The projects and measures identified for contribution expenditure will comply with the 3 tests set out in Regulation 122 of the Community Infrastructure Levy 2010, in that the monies would go towards the projects which are directly related to the development, and are fairly and reasonably related in scale and kind to the proposed development. The contributions would be index-linked to ensure the contributions rise in line with the costs of providing the identified projects/measures. The obligations sought are necessary to make the development acceptable in planning terms and to meet the needs generated by the new residents and the potential impact on existing services and facilities.

Section 143 of the Localism Act amends Section 70 of the Town and Country Planning Act to make local financial considerations an explicit consideration in the determination of planning applications.

ASSESSMENT OF PROPOSAL

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

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

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

The application site lies within the urban edge, in a part of Hedge End that is characterised by out-of-town retail parks. Permission has already been secured on the adjacent unit (1a) site to enlarge it (F/14/75157) which imposed a bulky goods condition and a further permission secured consent to broadly that condition to include toys, games and play equipment thereby enabling its occupation by a major toy retailer (X/15/76771).

The granting of a certificate of lawful use in 2013 confirmed that 'principal goods' as specified in condition 8 referred to 51% or more, therefore 49% of the floorspace can be used for the sale of any goods. This application seeks to expand the goods permissible for sale under Condition 8 of planning permission Z/28673/11, following the adjacent consent.

Considering the permission on the adjacent unit (X/15/76771), the bulky goods condition was amended to:

No more than 49% of the resulting floor space shall be used for unrestricted retail sales purposes within Use Class A1 (not including any ancillary café) and, notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, as amended, a minimum of 51% of the resulting floor space shall be restricted to the following Class A1 goods only: DIY materials and building supplies, furniture and carpets, domestic electrical appliances, auto accessories, garden equipment and materials, boats, toys, children's sports goods and equipment, bicycles and associated equipment, play equipment, baby equipment and products, electronic equipment and other products

ASSESSMENT OF PROPOSAL

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

associated with toys and children's entertainment.

While the concerns regarding enforceability raised by the Council's Planning Policy unit are noted, the condition broadly takes the accepted format of bulky goods conditions used nationally. In relation to the nature of the goods permitted within this condition, a number of the goods previously allowed can arguably be both bulky and non-bulky goods. The proposed condition has been revised to reflect goods that fall into this category. Regardless, the condition allows for the sale of goods that the LPA considers to be broadly acceptable in this location. The business model for the proposed occupier, Mothercare, exhibits the characteristics with those of traditional bulky goods retailer.

The granting of permission to expand the goods for sale at the adjacent unit is a material planning consideration in this case.

As required within the NPPF and Saved Policy 134.TC of the adopted Local Plan, a Sequential Test has been undertaken by the applicant. The LPA accepts, on this occasion, that there are currently no alternative, viable, sequentially preferable sites available that would meet the needs of the applicant and which are required to be tested. The proposals are considered to comply with the aims of the NPPF and saved policy 134.TC(ii) of the local plan.

Assessment of Impact

In accordance with paragraph 26 of the NPPF, supported by saved policy 134.TC, a retail impact assessment has been carried out.

This retail impact assessment considers the proposal in light of the extant development scheme and concludes:

'Based on the established turnover of Eastleigh town centre, even if all of the turnover generated by the proposed store (£5.96m) was diverted from the town centre, it would only lead to a total impact of 3.2% at 2021.

As set out above, due to the bulkier range of goods that Mothercare sell, the proposed development is anticipated to complement the existing stores in Eastleigh rather than compete directly with them. The majority of trade is anticipated to be diverted from other competing locations outside Eastleigh (Southampton, Fareham and Bournemouth). Given the specific nature of the proposed development, the actual impact in terms of the diversion of turnover and shoppers is expected to be de minimis*.'*

No objection has been raised by the Council's Planning Policy team regarding the retail impact on the Town Centre, subject to securing a financial contribution to offset the impacts of trade draw from Eastleigh Town Centre, consistent with the 2015 planning permission. These contributions will contribute towards improvements to the Town Centre to improve its attractiveness as an alternative shopping destination.

On balance, the proposal is considered to comply with the aims of the NPPF and saved policy 134.TC(iii) in this regard.

Environmental Impact Assessment

This proposal has been screened under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and it is concluded that it is Not EIA development. It is not Schedule 1 development and falls significantly below the thresholds given in Schedule 2

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ASSESSMENT OF PROPOSAL

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

(10)(Infrastructure projects).

Use of Conditions

Given this application seeks to vary the original permission Z/28673/11, it in effect supersedes that permission. While the majority of conditions on the permission related to the construction of the development and therefore are not conditions that remain ongoing for the duration of the development, two conditions restricting open storage and the use class of the restaurant remain applicable and have therefore been imposed.

OTHER MATERIAL CONSIDERATIONS

Also of relevance is the Submitted Eastleigh Borough Local Plan 2011 - 2029, July 2014. While not yet adopted it does carry weight by virtue of being intended as the current local plan's replacement. With regards to this application, the new policies essentially echo those of the current plan and are not considered to affect the recommendation put forward.

CONCLUSIONS

On balance, the proposed amendment to condition 8 of planning permission F/14/75157 is considered to accord with the relevant saved Local Plan policies and the principles set out in the NPPF. It is therefore recommended that planning permission is granted.