

# Committee Report

<b>Body:</b>	<b>Planning Committee</b>
<b>Date:</b>	<b>6 December 2005</b>
<b>Subject:</b>	<b>Proposed B&amp;Q store on land adjoining Pevensey Bay Road, Sovereign Harbour</b>
<b>Report Of:</b>	<b>Planning Manager</b>
<b>Ward</b>	<b>Sovereign</b>
<b>Purpose</b>	<b>To request Members to reconsider the retail impact issues (referred to in Reason 3 of application EB/2005/0398(OL))</b>
<b>Recommendation:</b>	<b>That the third reason for refusal of planning application EB/2005/0398(OL), in respect of land adjoining Pevensey Bay Road, Sovereign Harbour, concerning the indirect effects the retail elements of the proposal would have on the future growth prospects of Eastbourne town centre be not defended in the event of an appeal being lodged</b>
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## 1 Introduction

- 1.1 At the special meeting of the Planning Committee on 13 October 2005 permission was refused for a mixed use development comprising office (Class B1) and non-food retail (Class A1) floorspace (for B&Q), with associated re-profiling of the existing shingle mound, access, servicing and car parking on land adjoining Pevensey Bay Road, Sovereign Harbour (Application reference: EB/2005/0398). Five reasons were given on the decision notice issued on 8 November 2005. The reasons are listed in full in the Appendix to this report.
- 1.2 One of the reasons (Reason 3) relates to the indirect retail impact of the B&Q store on the future growth prospects of the Town Centre, despite the officer advice that, in the event of an appeal, there was no evidence to support a reason for refusal based upon retail impact. It therefore remains a concern that a potentially substantial award of costs against the Council could be made if this reason is defended at a subsequent public inquiry.
- 1.3 This issue was considered in great detail in respect of a previous application for a larger B&Q store on the same site, which was refused in May 2002. The Inspector's recommendation and First Secretary of State's

decision in respect of that application are material considerations in relation to the recent application.

## **2 The previous application (EB/1999/0448)**

- 2.1 This application, submitted in 1999, was for a total of 14,297 square metre non-food retail warehouse, including builder's yard and garden centre, which was almost 15% larger than the latest application.
- 2.2 Indirect retail impact on the town centre was one of the reasons for refusal, which was supported by the County Council as strategic planning authority, despite the fact that the Council's retail consultant concluded that the available evidence did not support such a reason.
- 2.3 At that time Members requested a second opinion from different retail consultants, whose conclusion was that Reason 3 could not be sustained on appeal. Notwithstanding this advice Members decided to defend Reason 3 at the subsequent public inquiry.
- 2.4 Neither the appeal Inspector nor the First Secretary of State supported the Council's case in respect of retail impact and dismissed this argument. The appellant did not seek an award of costs against the Council on this occasion.

## **3 The recent application (EB/2005/0398(OL))**

- 3.1 A number of key changes were identified by the Council's retail consultant since the 1999 application:
  - The retail floorspace now proposed has reduced
  - There has been new growth in the catchment area DIY spending
  - Eastbourne's catchment area population has increasedAll these factors add weight to the conclusion that the latest proposal would have less impact than the previous scheme. The Council's consultant will attend the meeting to present the evidence in respect of retail impact.
- 3.2 The County Council also accepted that there would be no retail impact and did not raise this as an objection to the latest application.

## **4 Consultation**

The Council's retail consultant was approached on the retail impact reason and he will attend the meeting to present his findings.

## **5 Financial Implications**

In the event of an appeal being lodged there could potentially be a significant award of costs against the Council, as the available evidence would not support the retail impact reason for refusal. The costs award would require the Council to pay the appellants costs in respect of the retail element of the case, which could be very substantial. There would also be the additional cost to the Council in appointing further independent retail consultants to defend the Council's case.

## **6 Human Resources**

As this aspect of an appeal would be prepared by consultants on behalf of the Council there would be little impact on human resources.

## **7 Environmental Implications**

None

## **8 Community Safety, Youth and Anti Poverty Implications**

None

## **9 Human Rights**

There are no Human Rights implications

## **10 Conclusion**

10.1 The Council's retail consultant considers that the First Secretary of State's conclusions on retail need and impact for the earlier application remain substantially correct for the current application. Namely that :-

- a) a clear need for the proposal has been demonstrated;
- b) there is no sequentially preferable site;
- c) direct impact on existing town & district centres would be negligible;
- d) indirect impact on Eastbourne Town Centre is unlikely to be a problem

7.2 On the basis of the available evidence it is considered that Reason 3 could not be defended on appeal and that potentially substantial costs could be awarded against the Council.

7.3 Reasons 1, 2, 4 and 5 remain valid and provide a strong basis for defending any subsequent appeal

## Appendix

### **LAND ADJOINING PEVENSEY BAY ROAD, SOVEREIGN HARBOUR**

Mixed use development comprising office (Class B1) and non-food retail (Class A1) floorspace with associated re-profiling of existing shingle mound, access, servicing and car parking. Application ref: EB/2005/0398(OL)

The reasons for the Council's decision to refuse permission for the development are:-

1. The proposal is contrary to policies in the East Sussex and Brighton & Hove Structure Plan (policies S18, E3, E4(b), E5 and E11) and in the adopted Eastbourne Borough Plan (policy BI.4), which allocate this site as a strategic employment site for B1 employment use only, because it would result in the loss of approximately one quarter of the site to retail use. Although the retail warehouse is presented as an enabling development, the proposal fails to demonstrate satisfactorily that it can guarantee the promised outcome of securing the B1 employment desired for this site.
2. The proposed retail warehouse and associated car parking and servicing, by virtue of its scale, site coverage and limited opportunities for landscaping, fails to harmonise with the appearance and character of the local environment and the servicing arrangements at the rear of the site would adversely affect the amenities of nearby residents by virtue of noise and disturbance. The proposal would thereby be contrary to Borough Plan policies UHT1, UHT4 and HO20.
3. Through its indirect effects, the proposal would harm the future growth prospects of Eastbourne town centre and its consequent vitality and viability and would thereby be contrary to Structure Plan Policies SH3 and SH6, Borough Plan Policies SH4 and SH5, PPS6 (Planning for Town Centres) and related Ministerial and Government statements.
4. The proposed development would generate excessive levels of traffic which would lead to congestion of the local road network, to the detriment of highway safety and the amenities and quality of life of local residents, by reason of noise, pollution and general disturbance and is thereby contrary to Borough Plan Policy NE28.
5. That the means of access to Commercial Area 2A, as indicated on the submitted drawings, would operate over capacity and is therefore inadequate to service the proposed development and would fail to comply with the Highway Authority's requirements.