

## **APPLICATION REFERENCE: P/16/9/FUL**

### **TWO CLASS A3 (FOOD AND DRINK UNITS) AND ASSOCIATED WORKS BRIDGEND RETAIL PARK**

The above application was reported to the Development Control Committee on 27 October 2016. The Officer's recommendation was for approval subject to a S106 Legal Agreement and conditions. A copy of the Officer's report and recommendation presented to the previous Committee (incorporating details included in the amendment sheet) is attached as **Appendix A**.

Members were minded to refuse planning permission contrary to the Officer's recommendation and voted against the development.

The three areas of concern raised by Members revolved around the loss of 24 parking spaces, the loss of 8 trees and landscaping within the car park and the impact of the development on the vitality and viability of Bridgend Town Centre.

In accordance with the Planning Code of Practice, the application was deferred until the following Committee (24 November 2016) in order for Officers to advise members further.

The following reasons for refusal are considered to reflect the issues of concern identified by Members at the previous meeting:

- 1. The proposed A3 units, by reason of their size, scale and location, would result in the loss of 24 parking spaces leading to a reduction in the capacity of the car parks serving the existing units on Bridgend Retail Park to the detriment of the businesses and their customers, contrary to Policies SP2 – Design and Sustainable Place Making and PLA11 – Parking Standards of the Bridgend Local Development Plan (2013) and advice contained with Supplementary Planning Guidance Note 17 – Parking Standards (2011).***
- 2. The proposed A3 units, by reason of their size, scale and location, would result in the loss of 8 established trees and associated landscaped areas which form part of the original layout and design of the Retail Park to the detriment of the character and appearance of the Retail Park, contrary to Policies SP2 – Design and Sustainable Place Making and ENV6 – Nature Conservation of the Bridgend Local Development Plan (2013) and advice contained with Supplementary Planning Guidance Note 7 – Trees and Development (2008).***
- 3. The proposed A3 units, by reason of their location within an out of town Retail Park, would have a detrimental impact on the vitality and viability of Bridgend Town Centre, contrary to Policy SP10 of the Bridgend Local Development Plan (2013) and advice contained within Chapter 10 of Planning Policy Wales (8<sup>th</sup> Edition, January, 2016) and Technical Advice Note 4 – Retailing and Town Centres (1996).***

Members are reminded that in accordance with the Planning Code of Practice, it is expected that the mover (or seconder) of the motion at Committee will represent the Council in any subsequent appeal process with technical support from Officers. Members are also reminded that any reason(s) for refusal must be based on sound planning grounds and firm evidence and the following comments are offered in respect of each draft reason for refusal:

#### **Reason 1:**

It is a matter of fact that the development will result in the loss of car parking spaces but should any decision to refuse planning permission be appealed, the Council will have to provide evidence that the loss of spaces will have demonstrable harm on the businesses and the users of the Retail Park. Members are advised that further evidence and information on the parking capacity of the Retail Park will be required to support this reason for refusal in the form of further parking surveys. Our Highway consultants, Capita, have quoted £1390 + VAT to carry out parking surveys between 10am and 5pm on a Saturday and a Sunday. The surveys could not be completed in time for this DC Committee meeting and, to assist members, Officers undertook a photographic survey of the car park around 2pm on Saturday 12 November, 2016. The photographs of the car park and trees, together with an aerial view of the car park, are attached as **Appendix B**.

Should Members decide that a full parking survey is necessary before making a decision on the application then Officers advise that the survey results may be distorted by the increase in shoppers visiting the site coming up to the busy Christmas period and any survey could also support the applicants parking survey.

#### **Reason 2:**

As indicated in the committee report, the application was accompanied by a tree report undertaken by 'The Tree Surgeons Limited' in September 2014. It confirms that a total of eight trees will be felled to accommodate the development and this will include 1 Birch, 2 Alder, 3 Silver Birch, 1 Ash and 1 Pine. The trees were part of the original landscaping for the retail park and, in the view of the tree surgeon, offer 'little amenity value'. This view is subjective and policies within the Bridgend Local Development Plan require that trees are retained where possible (Policy ENV6 refers). Whilst a case could be made to support this reason for refusal, the trees have no formal protection and could be removed at any time.

#### **Reason 3:**

Members are reminded that a Planning and Retail Assessment accompanied the application and included a review of impact, even though one is not required for this scale of development. It concluded that the proposal would be unlikely to have a material impact upon the vitality and viability of any designated centre but the report reminded the Council, that where 'impact' is a relevant test, then the appropriate basis of assessment would be whether the proposal would have a "significant adverse effect" on the vitality and viability of Bridgend Town Centre as a whole rather than its effect on the trading performance of individual shops. A sequential assessment, where the developer reviews sites or units within Bridgend which may

be capable of accommodating the proposal, based on certain parameters was also included and assessed by officers. On the evidence before the Council, there is no justification to reject this application on its impact on the vitality and viability of Bridgend Town Centre and such a reason could not be sustained at appeal.

Members are advised that following the last committee meeting a letter has been received from solicitors acting on behalf of the applicant company. The letter is reproduced in full at **Appendix C**.

Planning consultants acting on behalf of Homebase have also submitted an objection to the development expressing concern on the loss of car parking spaces and the impact of the development on the highway network. The letter is reproduced in full as **Appendix D**

Members are requested to have regard to the advice being offered in respect of the draft reasons for refusal. It should also be noted that any further delay in determination is likely to result in an appeal being lodged against the Council's failure to make a decision on the application within the agreed timescale.

**Recommendation:**

That Members consider the suggested reasons for refusal.

**MARK SHEPHARD**  
**CORPORATE DIRECTOR COMMUNITIES**

**Background Papers**

Appendix A – Original Committee Report

Appendix B – Photographs of the car park and an aerial photograph of the site

Appendix C – Letter from Forsters on behalf of the applicant company

Appendix D – Letter from G R Planning Consultancy on behalf of Homebase

# Appendix A – Original Committee Report

**REFERENCE:** P/16/9/FUL

**APPLICANT:** British Airways Pension Trustees Ltd C/O Mango Planning, Number One Waterton Park, Bridgend, CF31 3PH

**LOCATION:** **Bridgend Retail Park off Cowbridge Road Bridgend CF31 3XX**

**PROPOSAL:** Two Class A3 (Food And Drink) Units And Associated Works

**RECEIVED:** 6 January 2016

**SITE INSPECTED:** 2nd February 2016

## APPLICATION/SITE DESCRIPTION

British Airways Pension Trustees Limited are seeking planning permission to construct a free standing building, measuring 334 sq.m which is to be sub-divided into two separate units and constructed over a section of the existing car park that serves the Bridgend Retail Park. The Planning and Retail Statement submitted in support of the application confirms that the units will be used for Class A3 (Food and Drink) uses as described in the schedule to the Town and Country Planning Use Classes Order 1987

The proposed units will measure 17.2m x 6m with a sloping roof reaching a height of 4.9m. The unit will be sited in the northern corner of the retail car park, adjacent to the servicing area to the rear of the SCS outlet, fronting the car park with the rear elevation facing the Tesco service road.

In addition to the new units, the submitted plans propose a paved terrace and seating area to the front of the building, laid out such that the entrance to each of the units will have level approaches and flush thresholds.

Alterations to the existing car park and landscaping areas are a significant part of the application. The Transport Statement that accompanies the application confirms that the car park will be re-configured with the development resulting in the net loss of 24 spaces bringing the total available in the retail park to serve existing and new units to 300 spaces. The new build and associated changes to the car park will also result in the loss of eight semi-mature trees that were planted on 'islands' within the existing car park and along the northern site boundary. All trees formed part of the original estate landscaping. An assessment of the trees and the justification for the works has been set out in a tree report that has been submitted with the application.

The Design and Access Statement considers the design and appearance of the new building and indicates that contemporary materials are to be used comprising glass, coated aluminium, metal cladding panels and ceramic tiles, in colours that complement the existing units. The submitted plans confirm that the majority of the principal south elevation as well as the side west and east elevations will be glazed up to 2.75m above finished floor level in proprietary polyester powder coated aluminium curtain wall system, including shopfront doors. The remaining areas of wall are to be finished in proprietary smooth fixed ceramic tiles. Above 2.75m, the whole of the elevation is finished with insulated metal cladding panels up to the overhanging eaves.

The north elevation is to be finished in proprietary modular smooth fixed ceramic tiles up to 2.75m above fixed floor level, with insulated metal cladding panels above, up to the overhanging eaves. Each of the individual units within the pod unit will have a rear steel service/escape door and frame sized to co-ordinate with the tile module.



The roof is a simple mono-pitch which will also be finished in a light coloured profiled metal roofing system with an overhanging and contrasting colour coated metal fascia and soffit set off by an overhanging and colour coated metal fascia and soffit in a darker contrasting colour which will accentuate the roof form.

On the south side of the building, each unit will have a tubular steel feature frame standing forward of the building line to carry the respective tenant's signs and to denote the unit entrances.

The application has been accompanied by the following supporting documents:

- \* Design & Access Statement prepared by Saunders Architects;
- \* Planning Statement prepared by Mango Planning & Development Ltd;
- \* Highway Statement and Traffic Surveys prepared by Entran Ltd and
- \* Tree survey prepared by The Tree Surgeons Ltd.

## **RELEVANT HISTORY**

No recent planning history relevant to the site.

## **PUBLICITY**

The application has been advertised on site.

Neighbours have been notified of the receipt of the application.

The period allowed for responses to consultations/publicity has expired.

## **NEGOTIATIONS**

Negotiations commenced on 26<sup>th</sup> February 2016 in response to observations from the Transportation Policy and Development Section.

## **CONSULTATION RESPONSES**

Councillor G Phillips reiterate the concerns articulated by Mr Robertshaw and the other Picton Garden residents and wishes to speak at committee.

1. Notification issues: Residents feel they have not been notified properly about this planning application and have found out almost through an accident. Certainly residents living in Picton Gardens did not receive any direct communication from BCBC about this planning application and have therefore not been given a proper opportunity to comment on the planning application and of course oppose it.

2. Access and egress issues: Mr Robertshaw and the other Picton Gardens residents were deeply concerned about access and egress issues that would be created if this planning application is successful. The Bridgend Retail Park has a far from satisfactory road and roundabout arrangement at the moment. It struggles to cope with traffic using

the park and a constant issue for residents is congestion as cars access and egress the retail park. The loss of 50 car park spaces for the two food and drink units is going to make a bad situation worse. Illegal car parking on the Picton Gardens estate is a constant problem and the loss of 50 car park spaces is going to make matters worse.

3. Congestion/rubbish and waste issues. Constant issues with congestion and food outlets have often blighted the lives of residents living on the Picton Gardens estate. There are numerous existing food and drink outlets on the Bridgend Retail Park including TESCOs, McDonalds, KFC and near to ARGOS and Dunelm stores, a COSTA coffee shop. Two more food and drink outlets will increase the rubbish on the estate and make the parking situation even worse.

Councillor Mrs E M Hughes:

1. The removal of 50 car parking spaces from the Bridgend Retail Park to accommodate the pods could impact on the streets nearby such as Picton Gardens and the street leading to the day centre in that drivers could park there and cause an increase in congestion especially in Picton Gardens which already suffers lorries entering the street at 6am on certain days and of course the evidence of McDonalds patrons parking in the street to eat their take away food and throwing rubbish onto the open front gardens.

2. Should the committee be minded to accept this application, could a stipulation be in place to modify the exit from the retail park onto the roundabout thus avoiding congestion. Due to congestion residents often have difficulty driving out of their street.

Bridgend Town Council: No objection.

Head of Street Scene (Highways): No objection subject to conditions.

Head of Street Scene (Drainage): No adverse comments.

Welsh Water Developer Services: No objection subject to conditions and advisory notes.

## **REPRESENTATIONS RECEIVED**

Letter of objection have been received from the occupiers of 38, 41 and 42 Picton Gardens and 15 Priory Avenue. A letter of objection and attached petition, signed by 89 residents of Picton Close and Picton Gardens has also been received. The following is a summary of the objections received:

1. Extra parking overflowing onto our estate. The parking on the retail park is already under strain from the amount of existing visitors. This additional application will increase the visitors and decrease the parking spaces, so inevitably the visitors will park on the road leading up to and into our estate.
2. The additional cars and visitors from the extra retail unit will put pressure on an already congested flow of the traffic. The road infrastructure does not allow for an easy flow - there is only one entrance in and out.
3. Litter and Rodent Problems on Retail Park

4. Removal of trees from the area - increases the noise which would have been blocked out.
5. There are already issues with anti-social behaviour in the area by SCS and Homebase - this has been classed as a high priority by the local PACT group - this will only encourage more people into the area.
6. The additional outlet will further impact the value of the house prices in the surrounding areas
7. Development will encourage more school children to the area
8. Application should have been more widely publicised.

## **COMMENTS ON REPRESENTATIONS RECEIVED**

The following comments are provided in response to the representations received:

1 & 2. The objections offered by the residents in relation to the loss of car parking to facilitate and the additional traffic that will be generated on the local highway network are the key issues in terms of the acceptability of the proposed development and are considered in detail in the following section of the report. For clarification, the development will result in a net loss of 24 spaces and not 50 spaces as quoted by an objector.

3. The propensity for hot food outlets to generate litter and possibly rodent problems has been held in court as a material planning consideration even though it is controllable by other legislation. It is however rarely sufficient reason in itself to refuse planning permission. Litter patrols are currently undertaken by McDonalds in connection with their use but this generally covers the area outside the main retail park car park. The Design and Access Statement does indicate that waste management will be down to the future tenants of the units.

4. The development will result in the removal of a number of existing trees that formed part of the original estate landscaping works. In the concluding section of the tree report that accompanied the application, the trees are considered to be of little amenity value. Whilst the loss is regrettable, the trees are not considered worthy of formal protection and as such the loss is consented by this development. Limited opportunities exist for re-planting but trees along the fence line will be retained subject to crown lifting works being undertaken.

The existing retail units will screen the units from the nearest residential properties so it is unlikely that these new uses would exacerbate any problems with noise.

5. Whilst residents have referred to problems of anti-social behaviour associated with the existing car park these are matters either for the Police or the owners of the retail park. Controls can be imposed on the uses and the hours of operation which may discourage late night activities but this would represent the limit of planning controls, in this case.

6. Property devaluation is not a material consideration in the context of this development.

7. The existing McDonalds fast food outlet does attract children from the nearby comprehensive school and whilst a relatively direct route does exist along the A48, for a section, it does comprise grass verge on the northern side of the carriageway and passes over the frontage of a petrol filling station. Whilst the Council has previously considered upgrading the route, there does not appear to be sufficient justification for such works to be tied to this development.

8. Residents believe that the level of publicity undertaken in connection with this application was deficient. The application site is however situated on the retail park, surrounded by a number of commercial units, all of which were notified of the application. The properties on Picton Garden did not receive individual letter of notification but the application was advertised by the display of site notices on the approach to the development. The level of publicity undertaken accords with the published regulations.

## **APPRAISAL**

The application can be determined under the present scheme of delegation granted to officers by the Council and is described in detail at the beginning of this report.

The main issues relevant to the determination of this application are:

- (i) Whether the development accords with the hierarchy of retailing in the county borough;
- (ii) Whether the development will adversely affect the amenities of the nearby residents and the visual amenities of the surrounding area generally.
- (iii) Whether the road infrastructure and retained parking are acceptable to serve the existing and new development

The application site forms part of the Bridgend Retail Park which is designated as an existing 'out-of-centre' retail facility under Policy REG10 (1) in the adopted Bridgend Local Development Plan (2013). Extensions within the boundaries of these sites will require an assessment of need, sequential test and assessment of impact as required by national policy.

The Planning and Retail Assessment that accompanied the application maintains that the nature of the proposed use is to provide an ancillary and complementary function to the existing uses within Bridgend Retail Park and as such the customer base will be drawn from existing users of the park. The agent claims that coffee shops/restaurants at such locations do not act as destinations in their own right but rather are visited in combination with other facilities nearby. There is no established methodology for assessing Class A3 proposals but the agent suggests that, in this case it is principally in qualitative terms and maintains that the development will enhance the range and choice of A3 units in this location and may discourage unsustainable trips by car to other locations.

In accordance with Policy REG 10 (1) the 'sequential test' has been applied to this proposal with the search area including Bridgend Town Centre, both in terms of existing units and new development sites and number of other surrounding district and local centres. The study concludes that no other site is sequentially preferable to the application site.

Impact has also been examined in the applicant's accompanying report and it has been concluded that given the scale of the development it is unlikely to have a material impact on the vitality and viability of any designated centre.

With reference to planning policy, it is considered that the proposed A3 units will be ancillary and provide complimentary services to customers using the Retail Park. There is therefore no more appropriate location for such facilities.

In terms of the needs test which applies to A3 as well as retail A1, it is recognised that it is difficult to establish a methodology for determining need for A3 uses. The applicant states that the need in this case is a qualitative one as the retail park does not currently offer such facilities as that proposed by this application. Taking into consideration changing shopping patterns, it is considered that the proposed development should enhance range and choice on the Retail Park.

In terms of the sequential test, the role of the proposed A3 units is intrinsically linked to the activity at the existing Retail Park and it is accepted that the proposal could not be located elsewhere. It is considered that the proposal will not impact negatively upon the viability of the town centre as a whole and there is no objection to the development when considered against the retail policies of the Bridgend Local Development Plan.

All development is required to create high quality, attractive, sustainable places and Policy SP2 of the Bridgend Local Development Plan identifies 15 criteria which are the starting point for the assessment of all applications. Having good road connections within and outside the site, to ensure efficient use; avoiding or minimising noise, soil and water pollution, safeguarding and enhancing biodiversity and green infrastructure, safeguarding the amenity of neighbouring uses/occupiers and incorporating appropriate arrangements for the disposal of foul sewage and surface water are the relevant criteria for the purposes of this application. Tree loss is considered in Policy ENV6 which confirms that proposals for development will be required in the first instance to retain, conserve, restore and enhance wherever possible existing woodlands and trees.

The design of the 'pod' is functional and subject to the agreement of finishes, the building should fit in well with the surrounding retail units. The loss of a number of trees that formed part of the original estate landscaping is however regrettable as they assist in breaking up the large car park which dominates the retail park. The trees do not, however, provide such outstanding amenity value as to warrant protection.

Opportunities to re-plant are limited although it may be possible to enhance the planting on the northern boundary which faces the Tesco Retail Unit and to the front of the 'pod'. Planting along the rear boundary will in time help to screen the servicing area at the rear of the building.

Whilst objections have been received from the residents of the adjacent housing development (Picton Gardens), the 'pods' will be some considerable distance from the properties and should not, have any significant impact on the living conditions and well-being of the existing residents. Subject to conditions that will cover re-planting, finishes, hard landscaping, drainage and pollution control, the proposal broadly accords with Policy SP2 of the Bridgend Local Development Plan.

All development proposals are required to promote, amongst other things, safe forms of transport through good design. Land-use transportation solutions will be required to deliver a more effective, efficient and accessible transport system by following a range of principles which include reducing congestion, the need to travel, reliance on the



private car and providing appropriate standards of car parking, (Strategic Policy SP3 of the Bridgend Local Development Plan (2013) - paraphrased).

In accordance with Welsh Government guidance the Council has adopted parking standards that endorse maximum levels of parking provision in developments, (SPG 17: Parking Standards). All development proposals will be expected to have due regard to, and, where appropriate, conform to its up to date and/or adopted parking standards.

Current car parking provision on the retail park has been considered in the Transport Statement by way of two 'accumulation exercises' (counts) undertaken on Saturday 19th September 2015 and Saturday 7th May 2016, (worst-case scenarios). Both studies confirm a total of 324 spaces on site with a peak in occupancy (66% - 214 spaces) occurring at 13:45 and 14:45 on the 19th and (64% - 207 spaces) at 13:15, 13:45 and 15:15 on 7th. The Transport Study concludes that capacity exists within the car park to serve the existing and proposed development. Whilst the outcomes of the parking study are not disputed it should be noted that when assessing the existing retail park against the current car parking standards (SPG: 17), the provision is deficient in the range of some 150 spaces. Despite this shortfall, the technical evidence suggests spaces are available and will still be post-development. Whilst the car park and associated road network is congested at peak times, there is no evidence to indicate that parking is being displaced to the roads outside the park. Any parking on the approach to Picton Gardens is generally associated with visitors to McDonalds and this again is during weekends and bank holidays. Resisting this application on the basis of the deficiencies of the car parking facilities would be difficult to sustain at appeal. A suitably worded condition to limit the A3 uses to a coffee shop/café/sandwich bar type of use will be imposed which will ensure that the retained parking levels will be appropriate to the combination of the surrounding existing, and proposed, uses. In considering the suitability of the car park to accommodate delivery vehicles and HGV refuse vehicles, the Council will require a scheme that details a revised circulation plan of the car park, swept paths to show HGV's can use the revised circulation route and the re-positioning / widening of the barrier at the entrance of the retail park (which currently reduces the width of the highway).

With regards to the servicing vehicles for the units using the main car park, it is considered that a suitable traffic and delivery management plan will be required in order to mitigate any concerns of conflict with customer vehicles at peak times within the retail park. It should be noted that the timings of the deliveries / servicing vehicles must consider not only the operational hours of the proposed units but also the normal operational hours of the surrounding units. The Traffic and Delivery Management Plan will also enable suitable control over the size of commercial vehicles to those which are proven to be acceptable by the submitted details above.

Bridgend Retail Park is located on land between the A48 and A473, two Core Road Networks in the County Borough. Policy PLA5 identifies the aforementioned corridors as the main routes for the movement of people and goods and confirms that development which would: a) adversely affect safe and efficient movement in these corridors; and/or b) create or exacerbate harm to the environment along them; and/or c) not be capable of mitigation will not be permitted.

Whilst the Head of Street Scene (Highways) initially had concerns regarding the traffic generation of the development and its impact on the highway network serving the site, it is now clear that the units are of such a size and proposed use that they are considered not to be materially detrimental to the existing conditions. Notwithstanding the above, the existing traffic movements through the retail park, and between the individual

parcels, suffer from congestion at peak times. It is considered that a scheme of Yellow Box road markings, lane markings and direction arrows on the internal roundabouts would assist with preventing exit blocking of the roundabouts and thus aid through movements. It is considered that this may benefit the traffic flows through the retail park and onto the Classified Routes A48 and A473 beyond the retail site. Accordingly the Council will require the applicant to enter into a section 106 agreement to the value of £5000 to secure such improvements to the capacity of the two roundabouts within the retail site, to ensure the free flow of traffic in the area.

## **CONCLUSION**

This application is recommended for approval because the development accords with the hierarchy of retailing in the County Borough established in the policies of the Bridgend Local Development Plan (2013) and will not adversely affect the amenities of the nearby residents and the visual amenities of the surrounding area generally. Furthermore and most critically, the road infrastructure and retained parking is adequate to serve the existing and new development.

## **RECOMMENDATION**

(A) The applicant enters into a Section 106 Agreement to pay a sum of £5,000 to secure such improvements (Yellow Box road markings, lane markings and direction arrows) to the capacity of the two roundabouts within the retail site, to ensure the free flow of traffic in the area.

(B) The Corporate Director Communities be given plenary powers to issue a decision notice granting consent in respect of this proposal once the applicant has entered into the aforementioned Section 106 Agreement, as follows:-

1. The development shall be carried out in accordance with the following approved plans and documents: Drawing No.1852-P-150, 152 and 153 received on 6th January 2016.

Reason: To avoid doubt and confusion as to the nature and extent of the approved development.

2. No development shall take place until a detailed specification for, or samples of, the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the agreed details.

Reason: To ensure that the proposed materials of construction are appropriate for use on the development so as to enhance and protect the visual amenity of the area.

3. The premises shall be used as a Cafe/Coffee Shop/Sandwich Bar and not as a restaurant where meals are prepared and served to customers and for no other purpose including any other purpose in Class A3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order.

Reason: To ensure that the uses are operated in a manner that is ancillary and complementary to the function of existing uses on Bridgend Retail Park and in the interests of highway safety.

4. The uses hereby permitted shall not be open to customers outside the following times:-

08:00 to 20:00 Monday to Saturday and 09:00 to 16:00 on Sunday

Reason: To ensure that the uses are operated in a manner that is ancillary and complementary with the function of existing uses on Bridgend Retail Park and to preserve the residential amenities of Picton Gardens.

5. No development or site clearance shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees (including spread and species) on the land, identify those to be retained and set out measures for their protection throughout the course of development.

Reason: To maintain and improve the appearance of the area in the interests of visual amenity, and to promote nature conservation.

6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To maintain and improve the appearance of the area in the interests of visual amenity, and to promote nature conservation.

7. No development shall commence until a scheme for the provision of 4 cycle parking stands has been submitted to and approved in writing by the Local Planning Authority. The stands shall be implemented before the development is brought into beneficial use and retained as such thereafter.

Reason: In the interests of promoting sustainable means of travel to / from the site.

8. No development shall commence until a scheme for the revised car park circulation plan and associated road markings has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented before the development is brought into beneficial use and retained as such thereafter.

Reason: In the interests of highway safety.

9. The revised and approved parking arrangement shall be implemented in accordance with the submitted plans with the spaces clearly demarcated in permanent materials before the development is brought into beneficial use and retained as such thereafter unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

10. No development shall commence until a scheme for the provision of extended / relocated security gate at the site access has been submitted to and approved in writing by the Local Planning Authority. The revised gate arrangements shall be implemented before the development is brought into beneficial use and retained as such thereafter.



Reason: In the interests of highway safety.

11. No development shall commence until a Traffic & Delivery Management Plan for the two units has been submitted to and agreed in writing by the Local Planning Authority. All servicing and delivery vehicles movements to the stores shall be made in accordance with agreed Traffic & Delivery Plan once the development is brought into beneficial use.

Reason: In the interests of highway safety.

12. \* THE FOLLOWING ARE ADVISORY NOTES NOT CONDITIONS

This application is recommended for approval because the development accords with the hierarchy of retailing in the County Borough established in the policies of the Bridgend Local Development Plan (2013) and will not adversely affect the amenities of the nearby residents and the visual amenities of the surrounding area generally. Furthermore and most critically, the road infrastructure and retained parking is adequate to serve the existing and new development.

The Traffic and Delivery Management plan required to address condition 11 above will need to contain sufficient information in respect of:

- opening hours of adjacent retail units which operate from the car park
- proposed delivery schedules
- proposed delivery vehicle / service vehicle sizes
- supporting swept paths diagrams
- arrangements for opening /closing gates to the car park out of hours
- the need to review the plan in the event that any of the above arrangements change or at the request of the Highway Authority

**MARK SHEPHARD**  
**CORPORATE DIRECTOR COMMUNITIES**

**Background Papers**  
None

## Appendix B – Photographic Survey of Car park (2pm - 12/11/16)





## Appendix C – Letter from Forsters Solicitors

# FORSTERS

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- 7 NOV 2016

Mr Darren Mephram  
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**Your Ref:** P/16/9/FUL

**Our Ref:** OW/MJE/25490.1132

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**Date:** 4 November 2016

CORPORATE DEVELOPMENT  
DIRECTOR - COMMUNITIES

Dear Mr Mephram

**Planning application ref: P/16/9/FUL in respect of proposed development at Bridgend Retail Park, Bridgend for two Class A3 (Food and drink) units and associated works ("the Application")**

We act on behalf of British Airways Pension Trust Limited ("the Applicant"), in respect of the Application.

We refer to the Application, which was considered by Members of the Bridgend District Council's ("the Council") Development Control Committee ("the Committee") on Thursday 27th October. At Committee, Members resolved to defer the Application to allow Officers to draft reasons for refusal in respect of:

1. The loss of trees on-site;
2. Impact on the town centre;
3. Loss of car parking; and
4. Impact on the surrounding highway network.

I understand that the application is to be determined at the next available meeting of the Committee on 24th November 2016, at which time four reasons for refusal will be presented to Members.

Members are of course entitled to reach a decision contrary to the professional recommendation of Officers. However, any such departure from that recommendation should be based on sound planning reasons.

It was evident from comments of Members on the 27th October, that the application was not being approached with a positive presumption in favour of development but rather on what grounds can the application be refused.



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Welsh Office Circular 23/93 "Awards of costs incurred in planning and other (including compulsory purchase order) proceedings" states at Annex 3(7) that:

*"A planning authority should not prevent, inhibit or delay development which could reasonably be permitted, in light of the development plan, so far as it is material to the application, and of any other material considerations."*

If a planning authority does so prevent development then it is required to be able to justify that decision based on sound planning reasons. In particular, Annex 3(8) notes that:

*"Reasons for refusal should be complete, precise, specific and relevant to the application. In any appeal proceedings the authority will be expected to produce evidence to substantiate each reason for refusal, by reference to the development plan and other material considerations. If they cannot do so, costs may be awarded against a planning authority. Each reason for refusal will be examined for evidence that the provisions of the development plan, and relevant advice in Department planning guidance...and any relevant judicial authority, were properly taken into account; and that the application was properly considered in light of these and other material considerations. In any such proceedings, authorities will be expected to produce evidence to show clearly why the development cannot be permitted."*

In this case, the professional advice of the Council's Development Control Officer was that the Application is acceptable in all regards. In respect of the proposed reasons for refusal, I would like to highlight the following points:

#### **Loss of trees**

The Applicant can remove the trees at any time. They do not have the protection of a TPO. This reason for refusal cannot be substantiated.

#### **Impact on the town centre**

Evidence has been presented by the applicant to demonstrate that the proposal will not have a significant impact on Bridgend town centre. This is accepted by Officers and no evidence has been presented to the contrary. There is no justification for this reason for refusal.

#### **Loss of car parking**

The Applicant has submitted two car parking accumulation studies, which demonstrate that even with the application proposal, the proposed 300 car parking spaces is more than sufficient to meet peak demand. There has been no evidence presented to counter this position. This reason for refusal cannot be substantiated.

#### **Impact on the highway network**

The Applicant has provided detailed highway evidence to demonstrate that the proposal will not impact upon the existing highway network. This has been assessed thoroughly by both highway officers and Capita on behalf of the local planning authority, both of whom accept that there will be no impact. Moreover, the Applicant has agreed to enter into a legal agreement to pay a financial contribution for highway improvements in the local area. Again, there is no evidence to justify this reason for refusal.



Council Officers, as well as external technical consultants, have reviewed and approved the Application. No technical objections have been raised by any internal or external statutory consultee. It is their professional, objective view that the Application is in accordance with the development plan, and ought to be granted *planning consent*.

For Members to refuse consent for the Application, in the absence of material considerations to support such a stance, would be a contrary to the requirements of planning law<sup>1</sup>. If the Application is refused my client reserves its right to appeal the decision, seeking a full award of costs as part of that process. As advised by the Council's own officers during Committee, such an appeal is likely to succeed.

Notwithstanding the Committee resolution of 27th October 2016, you will be aware that the decision on this proposal will not be made formally until the 24th November 2016 Committee meeting. The intervening period between meetings presents an opportunity for Members to review its resolution with the benefit of legal advice and it remains open to the Committee to approve the proposal at the 24th November meeting and avoid the delay and cost of an appeal.

Yours faithfully



**Forsters LLP**

cc Cllr Marlene Thomas (Chair of Bridgend District Council Planning Committee)

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<sup>1</sup> See section 70(2) of the Town and Country Planning Act 1990 (as amended) and section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended)

**Appendix D – Letter  
from G R Planning  
Consultancy**



Your Ref:

Our Ref: GR695

Date: 15<sup>th</sup> November 2016

Development Control  
Bridgend County Borough Council  
Civic Offices  
Bridgend  
CF31 4WB

By Email [planning@bridgend.gov.uk](mailto:planning@bridgend.gov.uk)

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RECEIVED

15 NOV 2016

Dear Sirs,

**APPLICATION P/16/9/FUL – BRIDGEND RETAIL PARK, WATERTON**

I refer to the above application submitted on behalf of the British Airways Pension Trustees Ltd for two new A3 units within the existing customer car park. I act on behalf of Bunnings-Homebase UK & Ireland who have instructed me to submit an objection to the application. This objection is submitted in relation to the highway impact the development would have on their Homebase store and the wider Retail Park.

I apologise for the lateness of this objection, but my clients have only recently become aware of the full implications of this proposal. Whilst they note that Homebase were consulted on the application in January this year, as you may be aware this coincided with the sale of the Homebase business to Bunnings (part of Wesfarmers Ltd - Bunnings are the leading retailer of DIY, home improvement and outdoor living products in Australia and New Zealand). Bunnings strategy moving forward is to invest in the core of the Homebase business, introduce the Bunnings offer and quality of service and secure growth through the expansion of the portfolio and where feasible the expansion of individual stores.

We understand from discussions with Officers that the application was deferred at the Development Control Committee on the 27<sup>th</sup> October 2016 as Members were minded to refuse planning permission. Officers have been instructed to report back to the next Committee meeting on the 24<sup>th</sup> November with suggested reasons for refusal so that Members can decide whether planning permission should be refused. We understand that the concerns highlighted by Members relate to the loss of mature trees, loss of customer parking and impact on the vitality and viability of the town centre.

In relation to the loss of mature trees and impact on vitality and viability, my clients consider that these are matters for the Council to determine. However, in relation to the loss of customer parking, my clients support the concerns that have been raised by Members and consider that this objection provides sufficient justification in itself to refuse the proposals.

*Continued 2..*



My clients have not had the opportunity to independently review the Applicants car park accumulation surveys, but note that the Highway Authority (HA) appear satisfied with their findings. Whilst the surveys appear to show a surplus of spaces at peak periods even with the new A3 units, those findings are not evidenced by my clients own experiences of this Retail Park, which the Homebase Store Manager has confirmed struggles to cope with the level of parking demand and congestion that exists at present. Adding to those problems by increasing the demand for parking whilst at the same time reducing provision by 24 spaces will only compound those problems and potentially impact on the viability of the Homebase and adjoining retail stores.

The Homebase Store Manager has confirmed that one of the specific problems of the Retail Park is the congestion that currently occurs at peak periods, which can result in customers taking up to 30 minutes to exit the Park. This is a concern shared by the HA as they confirm in their consultation response (dated the 19<sup>th</sup> October 2016). Removing two of the principal routes that enable customer vehicles the exit the car park will simply make that situation worse and my clients are not convinced that any form of mitigation could address this level of impact.

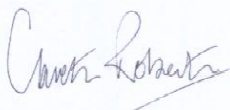
We also note from the Committee Report and the HA consultation response, that there remain a number of significant outstanding highway issues, which the Report suggests can be dealt with by conditions on the grant of planning permission. This is an application seeking full planning permission and it must and should, therefore, include all the works that are proposed and required to mitigate the impact of the development, so that interested parties such as my clients can properly scrutinise all the proposed works and comment, where relevant. The HA are clearly concerned with the current problems relating to the free flow of traffic and congestion within the Retail Park and with the servicing implications of the proposed development. These are matters that cannot be conditioned as they are fundamental to the acceptability of the development in highway terms. If these concerns cannot be mitigated, then planning permission should be refused.

In addition, the conditions recommended in the Committee Report and in the HA's response would appear to imply that any delivery management plan should include the existing retail units, an approach which is unlawful, in that the Council can only seek to control the deliveries that arise from the proposed development. The Council cannot seek to exert new controls over existing authorised delivery arrangements. If this is not the intention, then it should be made clear that such considerations do not apply to the existing retail units.

It is also apparent from the proposed layout plan that no provision is shown for servicing. There is no indication as to how this could be achieved without resulting in further harm to highway safety. It is unclear, therefore, as to how Officers can recommend an application for full planning permission without any indication of how the new units will be serviced, without any swept path analysis having being undertaken and without a workable solution to mitigate the traffic circulation and congestion problems that already exist, problems which the proposed development will only exacerbate further.

I would be happy to discuss these objections further with you and would be grateful if they could be reported to the Committee meeting on the 24<sup>th</sup> November.

Yours faithfully,

A handwritten signature in dark ink, appearing to read 'Gareth Roberts', with a stylized flourish at the end.

**Gareth Roberts**

**Director**

**On behalf of G R Planning Consultancy Ltd**