

Addendum

Planning Committee

Dear Councillor,

Planning Committee - Wednesday, 8 March 2023, 7.30 pm

I enclose, for consideration at the meeting of the Planning Committee to be held on Wednesday, 8 March 2023 at 7.30 pm, the following reports which were unavailable when the agenda was published.

Mari Roberts-Wood
Managing Director

4. **Addendum to the agenda(Pages 3 - 18)**

To note the addendum tabled at the meeting which provides an update on the agenda of planning applications before the Committee.

For enquiries regarding this addendum;

Contact: 01737 276182

Email: democratic@reigate-banstead.gov.uk

Published 08 March 2023



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ADDENDUM

MEETING OF THE PLANNING COMMITTEE

WEDNESDAY 08th March 2023

ITEM NO: 5

PLANNING APPLICATION: 21/00720/F Horley Place 17 Bonehurst Road Horley RH6 8PP

Representations

There have been a further 9 representations received since the publication of the committee report. Further objections have been raised on the following grounds:

- Hazard to highway safety
- Inconvenience during construction
- Increase in traffic and congestion

Comments have also been made in support of the application, citing the following benefits:

- Community/regeneration benefit
- Alternative location/ proposal preferred
- Economic growth / jobs

Additional letters of objection have been received on behalf of Tesco Stores Ltd and Lidl Great Britain Ltd. These objections are on the grounds that the Council has not adequately assessed the retail impact of the proposed ALDI store, and that the requirements of the sequential test have not been met. It is argued the site of the Air Balloon Public House 60 Brighton Road Horley (currently subject to an application ref: 22/01400/F) should be considered as an available site, as well as the site of Redhill Station and Gloucester Road car park in Redhill. On this basis it is argued that the application fails to meet the requirements of the sequential test as set out within the National Planning Policy 2021 and Policy RET5 of the Reigate and Banstead Development Management Plan (DMP).

In response to the above, to clarify the matters already covered in the Officer report, it is important to note that the Air Balloon site contains a locally listed building as well as being under contract to another retailer and so is still considered to be unsuitable and unavailable for the purposes of satisfying the sequential test at the current time. It is to be noted that there is a current planning application submitted at the Air

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Balloon site by a rival retailer and, should that application be approved and the locally listed building matter overcome, then that would need to be a matter for the applicant of this application to address in any appeal that may be made, given this application is recommended for refusal.

With regards impact assessment, whilst concerns have been raised about retail impact at the Air Balloon site, these may fall short of an outright reason for refusal (as is also the case here) but that scheme also involves the relocation of an existing in-centre store and so the considerations are different.

In this case, the site is located within the Metropolitan Green Belt and recommended for refusal on the basis that no very special circumstances exist, including that there is no benefit by way of meeting retail need, offered by the proposal. On that basis no independent review of retail impact/sequential test was undertaken, which would normally be the case were the application being considered for approval.

The representations from Tesco Stores Ltd and Lidl Great Britain Ltd are appended to the addendum at Appendix A.

ITEM NO: 6

PLANNING APPLICATION: 22/02450/F - SAXLEY COURT 121 - 129 VICTORIA ROAD HORLEY SURREY RH6 7LT

Additional plan

For completeness the applicant has provided the north elevation for the proposed rear block. This is included in the Addendum at **Appendix B**. There is no change from the submitted illustrative elevations. The drawing number will be added to the approved drawings condition.

Changes to conditions

Following review of the conditions and comments from the applicant the following minor changes are recommended to the following conditions (changes highlighted in **bold** and *italics* and underlined, deleted wording is struck through):

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

Plan Type	Reference	Version	Date
Detailed Technical Plan	330510811-STN- XX-XX-DR-C-1204		18.01.2023
Floor Plan	PL01	B	30.11.2022
Elevation Plan	PL09		30.11.2022

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Elevation Plan	PL08		30.11.2022
Floor Plan	PL02	B	30.11.2022
Location Plan	PL06		07.11.2022
Block Plan	PL07		07.11.2022
Floor Plan	PL03		07.11.2022
Floor Plan	PL04		07.11.2022
Roof Plan	PL05		07.11.2022
Floor Plan	PL10		07.11.2022
Floor Plan	PL11		07.11.2022
Floor Plan	PL12		07.11.2022
Floor Plan	PL13		07.11.2022
Floor Plan	PL14		07.11.2022
Floor Plan	PL15		07.11.2022
Roof Plan	PL16		07.11.2022
Elevation Plan	PL20		07.11.2022
Elevation Plan	PL21		07.11.2022
Section Plan	PL22		07.11.2022
Elevation Plan	PL18		07.11.2022
Elevation Plan	PL19		07.11.2022
Elevation Plan	PL23		07.11.2022
Elevation Plan	PL24		07.11.2022
<i>Elevation Plan</i>	<i>PL25</i>		<i>28.02.2023</i>

Reason: To define the permission and ensure the development is carried out in accord with the approved plans and in accordance with National Planning Practice Guidance.

5. No development shall commence including demolition and or groundworks preparation until a detailed, scaled finalised Tree Protection Plan (TPP) and the related finalised Arboricultural Method Statement (AMS), **or otherwise evidence/ agreement of an alternative strategy**, is submitted to and approved in writing by the Local Planning Authority (LPA). These shall include details of the specification and location of exclusion fencing, ground protection and any construction activity that may take place within the Root Protection Areas of trees (RPA) shown to scale on the TPP, including the installation of service routings, type of surfacing for the entrance drive and location of site offices. The AMS shall also include a pre commencement meeting, supervisory regime for their implementation & monitoring with an agreed reporting process to the LPA. The AMS shall also include evidence that the Council has agreed to the proposed tree works – removal of T7 and T8. All works shall be carried out in strict accordance with these details when approved.

Reason: To ensure good arboricultural practice in the interests of the maintenance of the character and appearance of the area and to comply with British Standard 5837:2012 'Trees in Relation to Design, demolition and Construction – Recommendations' and reason: To ensure good landscape practice in the interests of the maintenance of the character and appearance of the area and to comply with policies NHE3 and DES1 of the Reigate and Banstead Development Management Plan 2019 and the recommendations

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within British Standard 5837:2012 Trees in relation to design, demolition and construction

8. No development **above slab level** shall commence ~~on site development shall commence~~ until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority (LPA). The LEMP should be based on the ecology and landscaping documents submitted with the application and shall include, but not be limited to following:
- a) Description and evaluation of features to be managed, including external lighting)
 - b) Ecological trends and constraints on site that might influence management
 - c) Aims and objectives of management
 - d) Appropriate management options for achieving aims and objectives
 - e) Prescriptions for management actions, together with a plan of management compartments
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period
 - g) Details of the body or organisation responsible for implementation of the plan
 - h) Ongoing monitoring and remedial measures
 - i) Legal and funding mechanisms by which the long-term implementation of the plan will be secured by the applicant with the management body(ies) responsible for its delivery.
 - j) Monitoring strategy, including details of how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme
 - k) Ecological Enhancement Plan

The above shall ensure that the scheme achieves as a minimum the biodiversity net gain set out within the submitted Biodiversity Net Gain report by Elite Ecology and enhancement measures recommended within that report.

The agreed details shall be implemented before occupation of this development, unless otherwise agreed within the approved LEMP or subsequently agreed in writing by the LPA, and maintained/monitored in accordance with the agreed details.

Reason: To provide enhancements to the biodiversity of the site in accordance with the provisions of the National Planning Policy Framework and Reigate and Banstead Development Management Plan 2019 policy NHE2.

11. ~~The development hereby permitted~~ **No development above slab level** shall ~~not~~ commence until a Bird Hazard Management Plan has been submitted to and approved in writing by the Local Planning Authority. The submitted plan shall include details of:
- Management of any flat/shallow pitched roofs on buildings within the site which may be attractive to nesting, roosting and “loafing” birds.

The Bird Hazard Management plan shall be implemented as approved, upon completion of the roofs and shall remain in force for the life of the buildings. No

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subsequent alterations to the plan are to take place unless first submitted to and approved in writing by the Local Planning Authority.

Reason: To manage the roofs in order to minimise their attractiveness to birds which could endanger the safe movement of aircraft and the operation of Gatwick Airport.

ITEM NO: 7

PLANNING APPLICATION: 22/02709/F Farm Corner 15 The Avenue

Representations

There has been one further letter of objection received since the publication of the committee report. Further objection has been raised on the following grounds:

- Harm to Conservation Area
- Inadequate parking
- Increase in traffic and congestion
- Loss of private view
- No need for the development
- Noise & disturbance
- Overdevelopment
- Overlooking and loss of privacy

These issues have been addressed within the committee report.

Plans

An additional plan has been received showing the elevations for plot 2. The plans are unchanged other than to show the elevations in colour and are appended to this addendum. This is included at Appendix C.

Conditions

The changes to the following conditions are shown in ***bold italics and underlined***.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Plan Type	Reference	Version	Received
Block Plan	15/TA/HH/20	B.1	26.01.2023

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Elevation Plan	15/TA/RP2/003	A	26.01.2023
Elevation Plan	15/TA/RP/005		08.12.2022
Proposed Plans	15/TA/RP2/002		08.12.2022
Floor Plan	15/TA/RP2/001		08.12.2022
Proposed Plans	15/TA/RP1/002		08.12.2022
Floor Plan	15/TA/RP1/001		08.12.2022
Elevation Plan	15/TA/RP1/003		08.12.2022
Arb / Tree Protection Plan	AS/CS/0821 TPP	C	08.12.2022
Arboricultural Plan	AS/CS/0821 TCP	C	C
Elevation Plan	15/TA/HH/19		08.12.2022
Section Plan	15/TA/RP2/004		08.12.2022
Proposed Plans	15/TA/HH/21	1.1	08.12.2022
Other Plan	15/TA/HH/12		08.12.2022
Site Layout Plan	15/TA/HH/04		08.12.2022
Floor Plan	15/TA/20		08.12.2022
Elevation Plan	15/TA/17		08.12.2022
Floor Plan	15/TA/18		08.12.2022
Elevation Plan	15/TA/16		08.12.2022
Floor Plan	15/TA/19		08.12.2022
Location Plan	15/TA/HH/01		08.12.2022
Block Plan	15/TA/HH/03	A.3	<u>08.12.2022</u>
<u>Elevation plan</u>	<u>15/TA/RP2/003</u>	<u>A</u>	<u>08.03.2023</u>

Reason: To define the permission and ensure the development is carried out in accord with the approved plans and in accordance with National Planning Practice Guidance.

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Our Ref: 2995/MR/LT20230303

3rd March 2023

Andrew Benson
Head of Planning
Reigate and Banstead Borough Council
Town Hall
Castlefield Rd
Reigate
RH2 0SH

MRPP
MARTIN ROBESON
PLANNING PRACTICE

*Town Planning Consultants
Development Advocacy*

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LONDON WC2N 6EF
TELEPHONE: 020 7930 0007
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Via Email: andrew.benson@reigate-banstead.gov.uk

Dear Andrew,

ITEM 5 PLANNING COMMITTEE, WEDNESDAY 8TH MARCH 2023. PROPOSED OUT OF CENTRE ALDI SUPERMARKET. HORLEY PLACE, 17 BONEHURST ROAD, HORLEY, SURREY. PLANNING REFERENCE: 21/00720/F

As you may be aware we act on behalf of Tesco Stores Limited and made representations to the above application by letter dated 24th December 2021. We have now reviewed the Officer's Report to the 8th March Planning Committee and make further representations.

These representations primarily relate to the application's failure against the sequential test and thus a breach of Policy RET5 as applied with paragraphs 87, 88 and 91 of the NPPF.

Since the submission of our representations Lidl have submitted a planning application for a discount foodstore in an out-of-centre location northwest of the town centre. As part of that submission a sequential assessment was provided considering a range of opportunities within the town centre that might be preferable to the application site. We have very thoroughly reviewed that submission and have found that some of the sites should not have been rejected on grounds of 'suitability' and 'availability'. Our detailed assessment of the relevant issues will be published shortly as part of our representations to the Lidl application.

However, we are able to confirm that that assessment has fallen substantially short in terms of applying the necessary flexibility, in terms of "*format and scale*" to the identified opportunities, as required by policy, particularly in the NPPF. Indeed, such flexibility is required to ensure that all "*...opportunities to utilise suitable town centre or edge of centre sites are fully explored*" (our emphasis) (paragraph 88). Such flexibility is fundamental in securing the achievement of national and local policy objectives to secure the 'Town Centre First' principle. The sequential test is the principle policy tool to achieve this. Thus, the beneficial outcomes of securing new retail development within town centres, so as to optimise their health and viability, is central to the test.

The opportunities reviewed on behalf of Lidl in Horley Town Centre include several sites of or marginally greater than 0.3ha. they also include the opportunity to combine such sites. There are recent examples of discounter retailers delivering similar sized stores to the Aldi's application proposal by applying a two-storey solution in an urban location. Such planning applications have been submitted on sites of no more than 0.3ha (for example, at

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Orpington and Thames Ditton). They are supported by circa 50 parking spaces. Such a scale of provision is satisfactory for a town centre location with its more sustainable (non-car) modes of travel available. Such flexibility does not rely on concepts such as Lidl's 'metropolitan format'. If such a site size parameter were applied we identify six potential sequential test opportunities.

Whilst Lidl's consultants have rejected these sites within Horley Town Centre, they have relied on unjustifiable considerations such as:

- the existence of an undetermined planning application dating from 2018 that suggests that the applicant “...remains committed...”;
- the existence of a planning permission, dating from August 2018, without explanation as to whether it is material or has been implemented in respect of Site 2 that is nevertheless “*identified as an opportunity site in the DMP*”;
- the lack of an opportunity being “...*directly visible from the main road network, so it can attract passing trade*” irrespective that such stores, when located within town centres, are rarely, if ever, dependent on car borne passing trade;
- emerging town centre initiatives about which the agents state “*We are not aware that the Council have commenced an assessment of parking needs which is a prerequisite for releasing this (and a second) site for development*”; and
- the suggestion that a landowner would require “...*replacement airport related parking (which) will not be permitted*”, although the suitability of the site is not dependent, in planning terms, on such replacement.

In terms of ‘availability’, the evidence submitted is scant or non-existent. Vague statements are made including:

- the existence of an undetermined planning application from 2018 despite any evidence of engagement with the owner;
- that “*We have seen nothing to suggest that the site is available for redevelopment*”;
- that “...*we have seen nothing to suggest that it is being marketed for disposal, so we do not believe it is available for development*”;
- the suggestion that the owner has “...*no plans to redevelop this car park*” and thus “*The site therefore cannot be said to be available*”;
- that the site “...*is in multiple ownerships with businesses trading successfully from it*”; and
- that “*there is nothing to suggest that the site is available for redevelopment, but we suppose that the owners would only be likely to consider selling if replacement parking is provided...*”

Most of these assertions do not stand up to scrutiny in the context of recent case law. In the Judgment of *Tesco Stores Limited v Antrim and Newtownabbey Borough Council* ([2022] NIKB 21/038671/01), Scofield J held that “*if a site is not being marketed for sale, that is some indication that it is not presently available, and perhaps an indication that it may not be available at all; but it is by no means determinative of the question of availability. Sites can be marketed quietly; and sometimes a landowner is open to the possibility of sale notwithstanding that they are not actively seeking to sell their property*” (our emphasis) (paragraph 49).

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There are, as referred to in the Officer's Report, two further sequentially preferable sites in Redhill. Our letter of objection (dated 24th December 2021) provided commentary on these. That and the analysis provided within the Officer's Report demonstrates that these sites have been erroneously dismissed both on the basis of 'availability' and 'suitability'. It is firstly not appropriate, in the context of the Gloucester Road car park site, to simply assert that *"as the site is not allocated for a retail development of the kind proposed, the site is not considered to be sequentially available"* (see the Officer's Report at paragraph 6.7). Development plans rarely allocate land for retail development. Such development will frequently make use of land identified for other purposes. The application site goes even further than this in seeking to develop land that is designated as Green Belt. Such designations are made in order to prevent land being made for urban development purposes.

The site at Redhill Station has also been dismissed due to the expectation of the submission of a planning application. Notwithstanding that the Council acknowledges the presence of a retail element in this application, the fact that that the application has not been submitted means that the site cannot reasonably be considered as 'available'. Furthermore, the submission of a planning application does not then, in itself, make the site unavailable. The Officer has not correctly interpreted how the sequential test should be applied.

To conclude, the proposed development would fail to meet the requirements of the sequential test as there are suitable and available sites that are sequentially preferable to accommodate the application proposals, both within Horley Town Centre and at Redhill. The Officer has inappropriately applied the sequential test, adopting unreasonable approaches to 'suitability' and 'availability'. Contrary to the Officer's conclusion at paragraph 6.9, the application is therefore in breach of Policy RET5 as supported by paragraphs 87, 88 and 91 of the NPPF.

An additional reason for refusal should therefore be added to the recommendation that, 'the proposed development fails to meet the terms of the sequential test and is therefore in breach of Policy RET5 as supported by paragraphs 87, 88 and 91 of the NPPF'.

Yours sincerely,

A black rectangular redaction box covers the signature of Martin Robeson. A blue ink scribble is visible to the left of the box.

Martin Robeson

martinrobeson@mrpp.co.uk

CC: matthew.sheahan@reigate-banstead.gov.uk and Lesley.westphal@reigate-banstead.gov.uk

Appendix A



Lidl Great Britain Limited

Lidl Northfleet Property Office
 Lidl Distribution Centre
 Crete Hall Road
 Gravesend
 Kent
 DA11 9BU

Wednesday, 8th March 2023

By email

Dear Matthew,

I write in respect of the application by Aldi Stores Ltd at Horley Place, 17 Bonehurst Road, Horley (ref. 21/00720/F).

Background

Aldi have submitted an application for a discount foodstore located on Bonehurst Road, Horley which is scheduled to be considered by members at Wednesday’s planning committee.

Lidl have submitted an application for a relocation of our existing discount foodstore, from our existing in-centre location on Victoria Road, Horley, to an edge-of-centre site 300m further along Victoria Road, which is as yet still undetermined by the LPA.

Summary table of key differences between the applications:

	Lidl (relocation)	Aldi (new store)
Retail floor area	1256sqm	1315sqm
Location	300m from the primary shopping area (Horley town centre) boundary	1900m from the primary shopping area (Horley town centre) boundary
Technical classification (retail sequential test planning terms)	Edge-of-centre	Out-of-centre

My planning consultants have previously objected to the Aldi application on my behalf, and I note that the application is being recommended for refusal.

However, I am concerned that the recommendation to members centres on only two reasons, one in relation to development on the Green Belt, and the other regarding the loss of veteran trees. I am concerned that members have not been fully informed correctly about **two very serious retail policy issues**, as these appear not to have been fully dealt with in the Officer’s report.

This is especially concerning when two discount food retail planning applications are live and underdetermined by the local authority, with one (Lidl) in a clearly more sustainable, sequentially preferable location in planning terms.

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I would like to take the opportunity to point out these very serious matters.

Retail Impact

On the issue of **retail impact**, the level of scrutiny from the LPA's policy team appears to be far less than they have given to my own application, which is only for a relocation of our existing store from Horley Town Centre to a site at the edge-of-centre only 300m away. Indeed, the Lidl application has been subject to a robust external impact assessment by experienced retail consultants. The same cannot be said for the Aldi application, despite it having a much larger retail footprint than the Lidl proposal, as well as being a great distance from the defined town centre boundary.

The committee report provides no assessment of retail impact – paragraph 6.10 says that the policy team made initial comments on the likely impact, but then provides no details and simply says that they have raised no objections to the applicant's retail impact assessment.

Given that the policy team have stated an impact objection to my own application, the lack of objection relating to retail impact to what is a wholly new store on an out-of-town site appears inexplicable, and an even-handed consistent approach is not being followed. This is especially evident as the policy team have said (on the Lidl application) that they believe Horley Town Centre is currently relatively weak in its convenience offer.

The lack of any assessment/response to the objections made on impact grounds means members will not have the background to make an informed decision, and I believe that should members decide to ignore the recommendation and resolve to grant permission, such a decision would be liable to challenge in the High Court.

Sequential Test

In respect of the **sequential test**, Officers have concluded that the Air Balloon site on the edge of Horley Town Centre is not available, on the basis that we (Lidl) have a contractual arrangement with the owner and are in the process of seeking our own planning permission to relocate our store there.

We do not agree with this position, as it follows from case law precedent that a site is not to be regarded as "unavailable" because it is "owned by a retailer already, to use itself for retailing, who is not going to make it available to another retailer". **Such a site is "available" for the retail use proposed.**

Further detail on the technicalities of this strong legal objection we hold in relation to this matter can be found in the enclosed Advice note from Lidl's planning legal advisor, Blake Morgan.

The conclusion in that advice, is that we believe the Officer's report to Committee materially misdirects Members on the considerations as to whether the sequential test requirements have been met. We firmly believe the sequential test has not been met, and members must be advised accordingly.

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Conclusion

It would appear that major cornerstones of retail planning policy have not been considered equally across the Lidl and Aldi applications. Retail impact and sequential test are fundamental benchmarks in most retail planning applications. It would appear that the council is not being consistent and transparent in its handling of these simultaneous discount foodstore applications.

In conclusion, I believe that two additional reasons for refusal for the Aldi application should be included in the Officer's recommendation to members:

- 1) failure to conclusively demonstrate that the proposed development will not have a significant adverse impact on the vitality and viability of Horley Town Centre; and**
- 2) failure to satisfy the sequential test.**

I am providing a copy of this letter to members ahead of the planning committee, so that these very important retail matters can be taken into consideration by them at committee.

For and on behalf of Lidl Great Britain Limited



Adam Forsdick
Regional Head of Property – South East

Enc.
Blake Morgan Legal Advice Note – Retail Sequential Test

CC:
Andrew Benson – Reigate & Banstead BC Head of Planning
Joyce Hamilton – Reigate & Banstead BC Strategic Head of Legal and Governance, (Monitoring Officer)
Members of the Reigate & Banstead BC Planning Committee
Chris Tookey - RPS

BLAKE MORGAN ADVICE REGARDING SEQUENTIAL TEST

1. We are now in receipt of the Report to the Planning Committee, dated 8 March 2023. We have particular concerns as to the content of the Officer's Report in terms of the application of the sequential test.
2. The proposed development is the demolition of existing buildings and the erection of a Class E retail unit with access, car parking and associated works to be occupied by Aldi. The site lies outside any designated town centre and is a proposal for an "out of centre" retail use, located entirely within the Metropolitan Green Belt, on previously developed land.
3. In accordance with the NPPF and the development plan, the proposals need to be considered in light of the sequential test. For the purposes of applying the sequential test in this case the Council has found there are no sequentially preferable sites within the entire Borough that could 'realistically house the proposed development'. The Council's Policy RET5 Development of Town Centre Uses Outside Town and Local Centres is also engaged.
4. The sequential test is set out at paragraph 87 of the NPPF which requires that *"Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered."*
5. Of particular relevance in the determination of this application is the matter of availability and the intended occupier of sequentially preferable sites.
6. The driver for the sequential test is to ensure the Government's policy principle of *"town centre first"* is achieved. It is therefore key, that available town centre sites are developed before available edge of centre sites and equally important that available edge of centre sites come forward before available out of centre sites. If the proposals come forward out of sequence, if less sustainable locations are developed for retail first, there is a risk that the sequentially preferred sites might not then come forward at all, with the retail competition from the out of centre development having already taken the available market in a catchment area. The only way to manage this risk is for the sequentially preferred sites to come forward in the sequentially preferred order. Only this approach will ensure such sites have the first opportunity to satisfy the available market demand.
7. The Judgment in *Aldergate Properties Ltd v Mansfield District Council* considered whether the identity of a retailer was a consideration in relation to 'availability'. Paragraph 42 of the Judgment confirms that *"A town centre site may be owned by a retailer already, to use itself for retailing, who is not going to make it available to another retailer. It is plainly available for retailing, though only to one retailer. That does not mean that another retailer can thus satisfy the sequential test and so go straight to sites outside the town centre. "Available" cannot mean available to a particular retailer but must mean available for the type of retail use for which permission is sought."*
8. It follows from *Aldergate* that a site is not to be regarded as "unavailable" because it is "owned by a retailer already, to use itself for retailing, who is not going to make it available to another retailer". Such a site is "available" for the retail use proposed.
9. We believe the Officer's report to Committee materially misdirects Members on the considerations as to whether the sequential test requirements have been met.

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10. The issues were looked at by the Council's own Policy Planning Officer rather than a retail expert, perhaps because a refusal for other reasons were expected to come forward. The comments of the Officer start at para 6.4 of the Report, confirm our concern that matters the basic requirements of the Aldergate judgement have been misapplied or not understood when considering the Air Balloon site. Which is in direct conflict with the findings in Aldergate, where sites were to be regarded as available even if they were owned by a retailer already, to use itself for retailing, and would not be made available to the applicant.
11. This is a straightforward misdirection based on an unlawful interpretation of the sequential test. It goes to the heart of the conclusions the Officer reaches on compliance with the sequential test.
12. We would challenge this conclusion and would have expected to have seen a reason for refusal to reflect the failure of the sequential test. By not including such a reason sends the wrong message as to whether or not the sequential test has been satisfied and will have precedent value.
13. We trust our comments will be considered in the determination of the application and a further reason for refusal for refusal will be included.



Appendix B



FRONT ELEVATION S.E



SIDE ELEVATION S.W



REAR ELEVATION N.W



SIDE ELEVATION N.E



Lake Field Barn, Bullen Road, Ryde
blacksandam@gmail.com

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SITE
15 The Avenue, Tadworth, Surrey,
KT20 5AY

PROJECT
Proposed new dwellings

REVISED PLOT 2 ELEVATIONS

SCALE 1:100@A3	DATE Nov 22	DRAWN BY D.Seaward
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AMENDMENTS

- Revised parapet design

DRAWING NO. 15/TA/RP2/003	REVISION A
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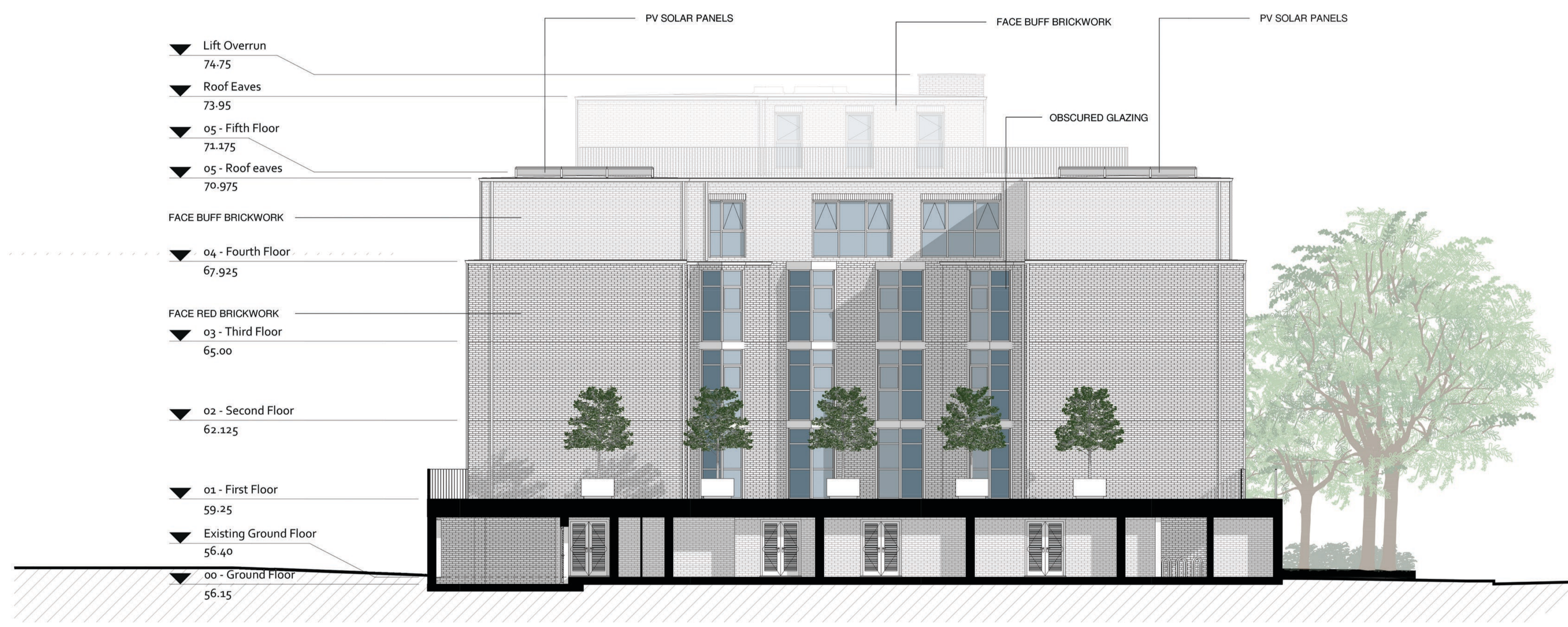
- MATERIALS**
- Roof tiles - Alderbury multi by Clay and Slate
 - Brickwork - Hampton Rural Blend by Forterra
 - Gutters and downpipes - Lindaub anthracite grey
 - Windows - White timber RAL 9010 pure white
 - Render - Off white RAL 9003
 - Open rafters and ogee profile gable fascia boards - 9010 pure white
 - Conservation roof lights



R Esdaile

enquiry.squares@gmail.com

Appendix C



Proposed North Elevation



GRAYLING THOMAS ARCHITECTS	<small>COPYRIGHT RESERVED DO NOT SCALE OFF DRAWINGS</small>	PROJECT: Residential Development Saxley Court, Horley	DRAWING: NORTH COURTYARD ELEVATION	PROJECT NUMBER: 472	<small>REV</small>	<small>DATE</small>	<small>DESCRIPTION</small>
			SCALE: 1:100 @ A1	DRAWING NUMBER: PL25	<small>Feb 23</small>	<small>PLANNING ISSUE</small>	