

**OFFICER REPORT FOR COMMITTEE**

**DATE: 15/02/2023**

**P/22/1172/VC  
B&M RETAIL LTD**

**TITCHFIELD COMMON  
AGENT: MWA**

VARIATION OF CONDITION 1 OF P/96/0838/VC (TO ENABLE THE CONTINUED AUTHORISED USE OF THE PREMESIS FOR NON-FOOD RETAIL PURPOSES WITH THE INTRODUCTION OF THE ANCILLARY SALE OF FOOD/DRINK FROM UP TO 560SQM AND CLOTHES/FOOTWEAR FROM UP TO 100SQM OF THE SALES DISPLAY AREA)

166 SOUTHAMPTON ROAD, TITCHFIELD, PO14 4QL

***Report By***

Susannah Emery – direct dial 01329 824526

***1.0 Introduction***

1.1 This application is being presented to the Planning Committee as the building is within the ownership of Fareham Borough Council.

***2.0 Site Description***

2.1 The application site is located within the urban area and is occupied by a large detached commercial retail building (measuring 3725 sqm in area). The building lies between Prelate Way to the west and Southampton Road (A27) to the east.

2.2 The building is currently vacant but was previously occupied by Argos and Carpet Barn.

2.3 The site is accessed from Lower Church Road at the northern end of the site. The building shares a car park with the Dunelm store which sits within the same retail park to the south.

2.4 To the north of the building is a service yard which is accessible from Prelate Way.

***3.0 Description of Proposal***

3.1 It is proposed to amalgamate the two vacant retail units to form one larger unit within the same building. The intended occupant of the combined retail units is B&M who occupy other retail units within the Borough within Fareham Town Centre and at Speedfields Park, Newgate Lane.

- 3.2 The existing building could currently be occupied by a single retailer without the need for planning consent provided the range of goods sold did not include food, drink, footwear, clothing or fashion goods.
- 3.3 The current restrictions on the units would not however enable B&M to operate from the premises with their existing business model which includes for the sale of an ancillary range of food and drink goods and also a limited clothing range.
- 3.4 Condition 2 of P/92/0906/VC relates to the former Carpet Barn store. It states;
- ‘The premises shall only be used for non-food retail purposes (excluding the sale of footwear, clothing and fashion goods) and for no other purpose in Class A1 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’*
- 3.5 The former carpet barn store is therefore permitted to be used for non-food retail purposes (excluding footwear, clothing and fashion goods). The current planning application seeks approval for the variation of this condition to allow the sale of food and drink as well as clothes and footwear.
- 3.6 Condition 1 of P/96/0838/VC relates to the former Argos store and states;
- ‘The premises shall only be used for non-food retail purposes and for no other purpose in Class A1 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’*
- 3.7 Whilst the sale of footwear, clothing and fashion goods from the Argos store was not restricted by this planning condition a Section 106 legal agreement (dated 29<sup>th</sup> July 1998) was entered into to restrict the sale of such goods to those displayed within the Argos catalogue only and this agreement is still in effect.
- 3.8 The planning application seeks approval for the variation of this condition to allow food and drink to be sold from the premises.
- 3.9 At the same time the applicant requests the Section 106 is formally discharged by deed of discharge which would enable the limited sale of clothing/footwear from the B&M store. Members are requested to formally

authorise the deed of discharge as part of the resolution to permit the variation of condition.

- 3.10 The applicant proposes that both the sale of clothing/footwear and food/drink products from the B&M store (or any subsequent occupant) would be controlled by planning condition and limited to being displayed within 100sqm and 560sqm of the total floor sales area respectively.
- 3.11 A further planning application (P/22/1271/FP) has been submitted for a 436sqm enclosed garden centre to the north side of the units within part of the service yard area and this is subject to a separate report on this agenda.

#### **4.0 Policies**

- 4.1 The following policies apply to this application:

##### **Adopted Fareham Borough Core Strategy**

CS3	Vitality and Viability of Centres
CS5	Transport Strategy & Infrastructure
CS6	The Development Strategy
CS17	High Quality Design

##### **Adopted Development Sites and Policies**

DSP1	Sustainable Development
DSP2	Environmental Impact
DSP37	Out of Town Shopping

##### **Fareham Local Plan 2037 (Emerging)**

The Fareham Local Plan 2037 was submitted to the Planning Inspectorate on 30th September 2021 and an examination conducted in March and April 2022. Following the conclusion of the examination hearings the Inspector has requested a number of modifications to the Plan. The proposed modifications were the subject of public consultation from 31<sup>st</sup> October until 12<sup>th</sup> December. The Council's Local Development Scheme schedules that the new plan will be adopted in Winter 2022/2023. On adoption the Local Plan will have full weight and in its current advanced stage is a material consideration for the determination of planning applications. The following draft policies of the emerging plan are of relevance.

R1	Retail Hierarchy and Protecting the Vitality and Viability of Centres
R2	Out-of-Town Proposals for Town Centre Uses
TIN1	Sustainable Transport
TIN2	Highway Safety & Road Network
TIN4	Infrastructure Delivery

## D2 Ensuring Good Environmental Conditions

### **Other Documents:**

Fareham Borough Design Guidance: Supplementary Planning Document (excluding Welborne) December 2015

Fareham Borough Council Non-Residential Parking Standards Supplementary Planning Document (September 2015)

### **5.0 Relevant Planning History**

5.1 The following planning history is relevant:

FBC.2823/1	Erection of Two Retail Sales Buildings with Car Parking Permission 3 November 1983
P/92/0906/VC	Retain & Continue the Use of 2 Shops Without Compliance with Condition 3 of FBC.2823/1 Permission 4 September 1992
P/96/0838/VC	Variation of Condition 2 of P/92/0906/VC which varied Condition 3 of FBC.2823/1 (To enable the sale of Footwear, Clothing & Fashion Goods from the Area Outlined in Red) Permission 14 September 1998
P/22/1271/FP	Use of Land as External Garden Centre & Erection of 5.2 Metre High Enclosure Under consideration

### **6.0 Representations**

6.1 One representation has been received raising the following concerns;

- Timing of deliveries and waste collection
- Adequate car parking should be provided

One letter of support has also been received.

### **7.0 Consultations**

EXTERNAL

#### **Hampshire County Council (Highways)**

7.1 No objection

INTERNAL

## **Environmental Health**

7.2 No objection

## **8.0 Planning Considerations**

8.1 The following matters represent the key material planning considerations which need to be assessed to determine the suitability of the development proposal. The key issues comprise:

- a) Principle of Development
- b) The Sequential Test
- c) Retail Impact Assessment
- d) Highway Implications & Car Parking Provision
- e) Impact on Living Conditions of Neighbouring Properties

### a) Principle of Development

- 8.2 The site is located within the urban settlement boundary however it is not within an allocated retail centre as shown on the proposals map of the adopted Local Plan. The Southampton Road retail park is identified as one of the few areas within the Borough that provides larger scale retail units which are difficult to accommodate in central locations, particularly with the required level of surface parking. Given the out-of-centre location the use of these units has historically been restricted to exclude or limit food/drink and clothing sales to protect the retail hierarchy of centres within the Borough.
- 8.3 The sale of a range of ancillary food/drinks is an integral part of the applicant's business model, although the range and scale of such products remains complementary and ancillary to the principal non-food products sold. Whilst the food sales from the store would be small in scale, it is advised that they are vital to the overall success of the company's operation. The floor area given over to the sale of clothing, footwear would be minimal.
- 8.4 Policy CS3 of the adopted Fareham Borough Core Strategy seeks to focus new retail floorspace within the Borough's retail centres maintaining the current hierarchy (i.e.. town centre, district centres, local centres). It is recognised that retail development outside of the Borough's centres can cause unsustainable shopping patterns and adversely impact on the health and vibrancy of nearby centres, by drawing away trade.
- 8.5 Policy DSP37 of the adopted Fareham Borough Council Local Plan Part 2: Development Sites & Policies relates to 'Out of Town Shopping'. Policy DSP37 states that:

*"Proposals for main town centre uses outside of the Borough's centres or parades will only be permitted where:*

- i. A full sequential test has been carried out demonstrating that there are no more centrally located sites that are available, suitable or viable;*
- ii. Appropriate levels of parking are provided;*
- iii. The site is not located outside the defined urban settlement boundaries and is accessible, particularly by public transport;*
- iv. The scale and design of buildings are appropriate to their surroundings; and*
- v. The proposal would not have any unacceptable environmental, amenity or traffic implications.*

*Where a development for main town centre uses is proposed over 500 sq. m, an impact assessment must be carried out to demonstrate that the proposal will not have an adverse effect on the vitality or viability of nearby centres, nor on any planned centre expansions. Conditions may be attached to permissions for new out-of-town shopping units to restrict the range of goods sold, and to control the size of units.”*

8.6 Whilst the authorised use of the units is currently already for retailing, the proposal would result in the introduction of over 500sqm of food/drink and clothing/footwear sales floor space which should typically be concentrated within the Borough’s retail centres. Policy DSP37 requires that where a development for a main town centre use is proposed over 500sqm, an impact assessment must be carried out to demonstrate that the proposal will not have an adverse effect on the vitality or viability of nearby centres, nor on any planning centre expansions. A sequential test should also be carried out demonstrating that there are no more centrally located sites that are available, suitable or viable. Both assessments have been submitted and are discussed in more detail within the following relevant sections of this report.

8.7 Members’ attention is also drawn to planning application P/15/1107/VC relating to the Home Bargains store which is also located at the Southampton Road Retail Park. This application concerned a variation of Condition 1 of P/91/1184/VC to permit the sale of food and drink and the sale of footwear, fashion clothing and fashion goods occupying no more than 30% of the gross sales floorspace. The permission was granted subject to the following planning condition;

*“The total sales area of the building shall be limited to 1,499 square metres, of which no more than 375 square metres shall be used for the sale of food and drink, and 75 square metres for the sale of*

*footwear/fashion clothing, unless otherwise agreed in writing by the Local Planning Authority.*

*REASON: For the avoidance of doubt and to protect the vitality and viability of existing retail centres within the Borough.”*

b) The Sequential Test

8.8 Having regard to sequential and impact tests ensures that any proposed main town centre uses which are not in an existing town centre are in appropriate locations and that there would be no material adverse effect on existing retail centres. As set out above Policy DSP37 requires that where proposals for main town centre uses are proposed outside of the Borough’s centres or parades they will only be permitted where a full sequential test has been carried out demonstrating that there are no more centrally located sites that are available, suitable or viable.

8.9 The sequential approach to site selection for main town centre uses is set out in paragraphs 87 and 88 of the National Planning Policy Framework (NPPF).

8.10 Paragraph 87 of the NPPF states:

*“Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. 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.”*

8.11 Paragraph 88 states:

*“When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.”*

8.12 The proposed B&M store is expected to attract most of its trade/custom from the western half of Fareham Borough. As such sequentially preferable sites within or on the edge of the Locks Heath District Centre and the local centres to the western side of the Borough along with Whiteley should be considered as sequentially preferable in the first instance. The applicant’s sequential

assessment also considers sites within Fareham town centre. The key requirements for a B&M store are a minimum floor area of 3,500 sq.m gross with an ability to provide an external garden centre. Ideally the sales area should be provided on one floor with car parking provided adjacent to the store.

- 8.13 A total of eleven other available premises were considered and discounted for various reasons. There are allocated development sites within Fareham town centre that are physically capable of accommodating the proposed store, but none of these opportunities are currently assembled and available for development within a reasonable period of time. Sequentially preferable sites/premises within Fareham town centre would not serve the primary catchment area and therefore would not be suitable for the proposed development. There is also an existing B&M store within the town centre. Vacant units and potential development sites in local centres were considered to be too small to accommodate the proposed development.
- 8.14 The applicant's sequential assessment has been independently reviewed by Lichfields consultants on behalf of the Borough Council. This review concludes that, based on the information provided, the sequential test has been satisfied for a discount store of the size and nature proposed.

c) Retail Impact Assessment

- 8.15 The floorspace affected by the proposed condition (660 sq.m) is above the locally set impact threshold of 500 sqm set out within Policy DSP37 which therefore requires the submission of a retail impact assessment to demonstrate that the proposal would not have an adverse effect on the vitality or viability of nearby centres, or any planned expansions.
- 8.16 Policy R2 of the emerging Fareham Local Plan 2037 also requires a retail impact assessment to be carried out but states that proposals for main town centres uses outside of the Borough's centres or parades will be permitted where they can demonstrate there is no significant harm, to the centres and parades.
- 8.17 The NPPF (para 90) advises that where a proposal is likely to have a significant adverse impact either on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal or on town centre vitality and viability it should be refused. Policy R2 of the emerging Local Plan and Para 90 of the NPPF both indicate that the more relevant test in relation to retail impact is that there should be no 'significant' effect or impact on existing centres.



- 8.18 The applicant's retail impact assessment has been independently reviewed by Lichfields consultants on behalf of the Council. Retail impact is considered in relation to the proposed increase in comparison goods floorspace resulting from the garden centre and a limited amount of clothing/footwear and also in relation to the proposed convenience (food/drink) goods sale floorspace.
- 8.19 It is considered that the occupation of the store by B&M is unlikely to result in a higher impact on comparison goods retailers within centres, when compared with the potential impact caused by another comparison goods retailer that could occupy the premises without planning permission. However, a comparison goods retailer selling predominantly clothing and fashion goods would be considered likely to divert more trade from town centres. If restricted in floor area to only 100sqm, as proposed, it is considered unlikely that the introduction of a small amount of clothing/footwear would have a significant adverse impact on any designated centre.
- 8.20 In terms of convenience goods Lichfields' assessment of retail impact suggests trade or custom will be drawn predominantly away from the large food stores and other discount retailers in the Borough. Lichfields estimates of this diversion away from existing retailers and the impact on designated centres are not significant and it is not considered that the proposal would harm their vitality and viability.
- 8.21 The retail impact assessment review highlighted a potential significant impact on Fareham town centre would be the closure of the existing B&M store, which would leave a large void within the Fareham Shopping Centre. Whilst there is no indication of an intention to close the town centre store, the applicants have agreed to the completion of a Section 106 legal agreement to secure the retention of the town centre store for a minimum of 5 years.
- 8.22 In conclusion, it is not considered that the proposal would result in any significant adverse effect on the vitality or viability of nearby centres, nor on any planned centre expansions. It is considered that the proposal complies with Policy DSP37 of the Local Plan Part 2, Emerging Policy R2 and the NPPF.

d) Highway Implications & Car Parking Provision

- 8.23 The site is considered to be in an accessible and sustainable location and can be accessed by non-car modes such as walking, cycling and public transport. The closest bus stop to the site is approximately 180 metres to the south on Primate Road. This stop is served by the X4 and X5 bus services which provide a link between Southampton, Portsmouth and Gosport, via Stubbington, Fareham, Titchfield, Locks Heath and Warsash.

- 8.24 A walking and cycling audit has been carried out by the applicant to identify any infrastructure deficits in and around the vicinity of the site which could be addressed to encourage sustainable modes of travel. The applicant has identified the requirement to improve pedestrian connectivity and access at the main site access from Lower Church Road. It is proposed to upgrade existing dropped kerb crossings with tactile paving. There is also an informal pedestrian footpath to the south-east of the site which links through to Southampton Road and it is proposed to formalise this footpath.
- 8.25 The impact of the proposal on the local highway network has been considered. The applicant's highway consultant has used data from the TRICS database to determine the anticipated trip generation figures for a retailer falling within the category of 'mixed bargain retail'. These figures have been compared with the trip generation figures for a non-food retail use. It is accepted that not all trips associated with the proposed development would likely be new to the highway network and a proportion would be linked trips or 'pass-by' trips associated with other uses. The Highway Authority have reviewed the submitted trip generation figures and it has been concluded that in comparison to the existing trip generation figures, the additional vehicle movements generated by the proposal would not be detrimental to the operation and safety of the local highway network. The impact of the development on the Segensworth and St Margaret's Lane roundabouts is considered to be minor based on the baseline existing conditions.
- 8.26 In terms of car parking provision the site is served by a total of 255 car parking spaces which are shared with the Dunelm store. Whilst the Council's adopted Non Residential Parking Standards Supplementary Planning Document (SPD) suggests that 524 car parking spaces should be provided for the combined floor area of the units this shortfall already exists. The SPD states that the standard for parking should be interpreted as a 'requirement' rather than a maximum or minimum figure, with variations permitted where these can be supported by evidence contained within a Transport Assessment or other compelling evidence.
- 8.27 The applicant has commissioned parking surveys at the site to ascertain the existing level of parking demand in connection with the Dunelm store. An area of the car park extending to the north of the application building containing 59 spaces has been closed off to the public but would be brought back into use as a result of the proposal increasing the current capacity of the car park. The results of the parking surveys demonstrated a maximum occupancy on a Saturday of 33% and on a typical weekday of 24%. Based on the provision of 255 spaces (including the area of car park to the north which would be brought back into use), this would suggest a minimum of 172 car parking

spaces would be available at any given time. The Highway Authority consider the existing parking provision to be acceptable to accommodate the demands of the proposed development.

- 8.28 Swept path analysis has been presented to illustrate how HGV vehicles can access and egress the service yard in a forward gear.
- 8.29 In terms of cycle parking the applicant will be required to provide 12 cycle parking spaces on-site to encourage more sustainable modes of transport. Submission of further details of this store will be secured by planning condition.

e) Impact on Living Conditions of Neighbouring Properties

- 8.30 The nearest residential properties to the application site lie to the west of Prelate Way approximately 35 metres away. It is not considered that the introduction of an element of food/drink/ and clothing/footwear sales within the retail units would result in any material increase in adverse impact to the living conditions of neighbouring residential properties.
- 8.31 Due to the potential increase in the number of deliveries to the site it is proposed to impose a planning condition restricting these between the hours of 7.00am – 9.00pm to minimise potential for disturbance to neighbouring properties.

Summary

- 8.32 It is not considered that the proposal would have a significant adverse impact on the vitality and viability of the Borough's town/district and local centres. Whilst a number of alternative sites have been explored there are no sequentially preferable sites that are available to the applicant. The site is in an accessible location and the proposal would bring two vacant retail units back into economic use, introducing only a small ancillary element of food/drink/clothing/footwear sales, without detriment to the operation of the local highway network or the living conditions of the occupants of neighbouring properties.
- 8.33 The proposal accords with the relevant policies of the adopted Core Strategy and the Local Plan Part 2: Development Sites & Policies and the emerging Local Plan and is considered acceptable.

**9.0 Recommendation**

9.1 AUTHORISE the deed of discharge in relation to the existing Section 106 legal agreement to allow the limited sale of clothing/footwear from the premises;

Then

9.2 GRANT PLANNING PERMISSION, subject to:

a) the applicant first entering into a planning obligation pursuant to Section 106 of the Town and Country Planning Act 1990 on terms drafted by the Solicitor to the Council to secure the retention of the B&M store in Fareham Town Centre for at least five years; and

b) the following Conditions:

1. The development hereby permitted shall be begun within 3 years from the date of this decision notice.

REASON: To allow a reasonable time period for work to start, to comply with Section 91 of the Town and Country Planning Act 1990, and to enable the Council to review the position if a fresh application is made after that time.

2. The development hereby permitted shall be carried out strictly in accordance with the following drawings/documents:

a) Site Location Plan (1:1250)

b) Transport Statement (Vectos, August 2022) & Update Ref: 226796/N01

c) Proposed Uncontrolled Crossing Arrangements (drwg No. 226796\_PD01)

REASON: To avoid any doubt over what has been permitted.

3. The use hereby permitted shall not commence until the existing car parking within the application site boundary including the 59 spaces to the north of the site (as identified within Figure 2 of the Transport Statement) have been made available for use by customers. These areas shall thereafter be retained and kept available for customer car parking at all times.

REASON: To ensure adequate car parking provision; In the interests of highway safety.

4. The use hereby permitted shall not commence until details of secure cycle storage for a minimum of twelve cycles has been submitted to and approved by the Local Planning Authority in writing. The secure cycle stores shall be provided in accordance with the approved details before the use first commences and shall thereafter be retained and kept available for use at all times.

REASON: To encourage cycling as an alternative mode of transport.

5. The premises shall only be used for non-food retail purposes and for no other purpose in Class E(a) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any Statutory Instrument revoking or re-enacting that Order with the exception of the ancillary sale of the following goods from the specified maximum total sales area;
- i) food and drinks goods - 560 square metres
  - ii) clothing/footwear - 100 square metres
- REASON: To protect the retail hierarchy within the Borough.

6. The use hereby permitted shall not commence until the pedestrian access improvements at the main site access from Lower Church Road as shown on the approved plans (drwg No. 226796\_PD01) have been completed.
- REASON: In the interests of pedestrian safety; To encourage sustainable modes of transport.

7. The use hereby permitted shall not commence until details of the width, alignment, gradient and type of construction proposed for the pedestrian link from the car park to the south-east of the site have been submitted to and approved by the Local Planning Authority in writing. The approved works shall subsequently be carried out in accordance with the approved details prior to the use commencing.
- REASON: In the interests of pedestrian safety; To encourage sustainable modes of transport.

8. No deliveries shall be taken at or despatched from the site outside the hours of 07:00-21:00 each day.
- REASON: To protect the occupiers of the nearby residential properties from possible disturbance.

Then

9.3 DELEGATE authority to the Head of Development Management to:

- a) agree any necessary modifications to the proposed development; and
- b) make any necessary modification, deletion or addition to the proposed conditions or heads of terms for the Section 106 legal agreement; and
- c) make any necessary changes arising out of detailed negotiations with the applicant which may necessitate the variation, addition or deletion of the conditions and heads of terms as drafted to ensure consistency between the two sets of provisions.

**Note to applicant**

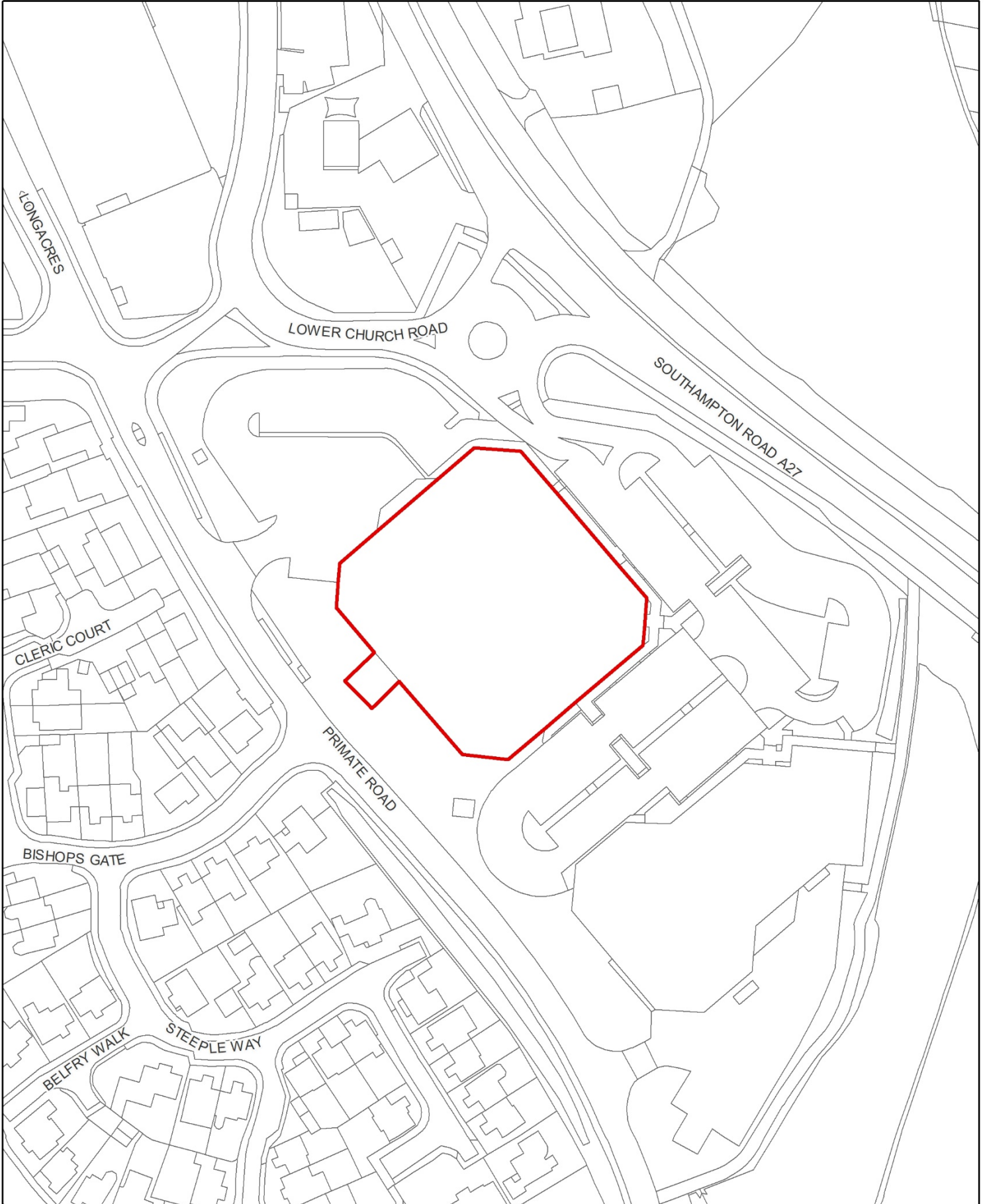
The applicant will require a licence from Hampshire County Council in order to carry out crossing and footway improvements on the highway network.

**10.0 Background Papers**

Application documents and all consultation responses and representations received as listed on the Council's website under the application reference number, together with all relevant national and local policies, guidance and standards and relevant legislation.

# FAREHAM

## BOROUGH COUNCIL



166 Southampton Road  
Titchfield, Fareham  
Scale 1:1,250



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