

Recommendation Report for Planning Permission

REF NO: BE/73/20/PL

LOCATION: 13 Royal Parade
Central Avenue
Bersted
PO21 5AJ

PROPOSAL: Change of use from Cafe to Restaurant (A3 Food & Drink). This application is in CIL Zone 4 (Zero Rated) as 'other development'.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application seeks consent for a change of use from Cafe to Restaurant (A3 Food & Drink). No external changes has been proposed. Both uses are traditionally A3.
SITE AREA	70 square metres
TOPOGRAPHY	Predominantly flat.
TREES	None affected by development.
BOUNDARY TREATMENT	None.
SITE CHARACTERISTICS	Currently vacant ground floor cafe with glazed shopfront and blank plastic fascia. Mid terrace two storey property with residential above. Upper floor is faced in white pebbledash with timber detailing and tiled, pitch roof. Covered vehicular access to the side leading to rear (a continuation of South Way).
CHARACTER OF LOCALITY	Local District Centre. 1930s parade of shops within a dominant corner position on the junction of Chichester Road and Central Avenue comprising commercial and retail use at the ground floor level and residential above. Surrounding area is characterised by semi-detached two storey dwellings of identical appearance.

RELEVANT SITE HISTORY

BE/65/20/PL	Variation of condition 3 imposed under BE/140/12/ to include the cooking of hot food on premises.
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BE/140/12/	Change of use from A1 (Cycle Shop) to A3 (Cafe)	ApproveConditionally 20-12-12
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Change of use from A1 (Cycle Shop to Cafe (A3) was approved (BE/140/12/) with a condition restricted

to that of a coffee shop and there shall be no cooking of food / produce, other than warming and re-heating of pre-prepared food to take place within the premises.

REPRESENTATIONS

No Objection.

No letters of representation received.

COMMENTS ON REPRESENTATIONS RECEIVED:

None.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

ADC ENVIRONMENTAL HEALTH - The applicant has not provided details of any assessment regarding potential odour and noise nuisance from the restaurant impacting residents; no details of kitchen ventilation extraction system, together with noise (if any) produced by the ventilation system Condition suggested relating to the kitchen extraction and ventilation system and restricted hours.

ECONOMIC DEVELOPMENT: has no comments on this application

COMMENTS ON CONSULTATION RESPONSES:

Comments noted; suggested conditions will be attached to the decision.

POLICY CONTEXT

Designation applicable to site:

Pagham harbour Access Management Zone B
Within built-up area boundary
Class C Road

DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

DDM1	D DM1 Aspects of form and design quality
DSP1	D SP1 Design
ENVDM2	ENV DM2 Pagham Harbour
QEDM1	QE DM1 Noise Pollution
QEDM3	QE DM3 Air Pollution
QESP1	QE SP1 Quality of the Environment
SDSP1	SD SP1 Sustainable Development
SDSP2	SD SP2 Built-up Area Boundary
TSP1	T SP1 Transport and Development
WMDM1	WM DM1 Waste Management

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD11	Arun Parking Standards 2020
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POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

Bersted has a "made" Neighbourhood Plan and there are no relevant policies to be taken into account.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

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

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

The proposal is not considered to conflict with the relevant Development Plan policies in that it would not have a materially adverse effect on the visual amenities of the locality and the residential amenities of the adjoining properties, and it would not have an adverse impact upon the established character of the surrounding area.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS**PROPOSAL**

The unit is in the Local District Centre of North Bersted at the junction of Central Avenue and Chichester Road. The Cafe has a floor area of approximately 70 square metres and is vacant. The proposed floorplan indicates a seating area with 24 covers, kitchen/servery to the rear, additional kitchen to the rear and WC. The surrounding area is characterised by a mixture of retail, commercial and professional services and residential. There is a flat above the unit.

PRINCIPLE

The site is in the built up area boundary where development is acceptable in principle in accordance with

policy SD SP2 of the Arun Local Plan 2011-2031 provided it accords with other policies of the Local Plan covering such issues as the change of use, visual/residential amenity, highway safety and parking.

The site is located in a Local District Shopping Centre outside the Principal Shopping Area of Bognor Regis. Restaurants and Cafes for the sale of food and drink for consumption on the premises are both within the same use class, however, as mentioned above, condition has been attached to the decision restricting cooking of food within premises.

BE/65/20/PL (not started) for a variation of condition 3 imposed under BE/140/12 was submitted which would be more appropriate in this case. It means that the subject of this application is not effectively a change of use but a variation/ removal of condition 3 imposed under BE/140/12.

Regard should be had to policy SD SP1 of the Arun Local Plan which states: "When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework." The site is in a sustainable suburban centre location in easy walking & cycling distance of a range of shops, facilities and services including bus stops.

The purpose of the NPPF is to contribute to sustainable development and to ensure that the planning system supports economic growth. Paragraph 9 stresses that planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. Local Planning Authorities should allow a rapid response to changes in economic circumstances.

In view of the length of time the unit has remained vacant, it is considered reasonable to enable a vacant unit to be brought back into use. The proposal is therefore considered to be compliant with relevant National and Local Planning Policy.

CHARACTER & DESIGN:

Policy D DM1 of the Arun Local Plan requires the Council seek to make the best possible use of the available land by reflecting or improving upon the character of the site and the surrounding area. It requires the Council to consider scale, massing, aspect, siting, layout, density, building materials, landscaping, and design features. It is necessary that development demonstrates a high standard of architectural principles, use of building materials and hard and soft landscaping to reflect the local area. D DM1 requires new housing makes efficient use of land while providing a mix of dwelling types and maintaining character and local distinctiveness. Higher densities will be more appropriate in the most accessible locations. The policy requires the scale of development keep within the general confines of the overall character of a locality.

ALP policy D SP1 "Design" requires development to make efficient use of land and reflect local character. Arun Design Guide Supplementary Planning Document (SPD), a material consideration in the determination of applications, was published under consultation until 21 February 2020. Part G.O1 which deals with Neighbourhood, Centres and Local Facilities stresses that the accessibility of facilities and services is fundamental to the proper functioning of a neighbourhood.

The area comprises mix of commercial and residential development. The proposal seeks to use an existing cafe as an restaurant, preparing and selling the food on premises. There are no changes proposed with regard to the external appearance of the property therefor it is not considered that the change will have an adverse effect on the character of the street scene and generally on the character of surrounding area.

The development complies with ALP policies D DM1 and D SP1.

RESIDENTIAL AMENITY INC NOISE AND ODOUR:

The Arun Local Plan policy D DM1 requires the Council have regard to certain aspects when considering development including having minimal impact to users and occupiers of nearby property and land. Policy QE SP1 states: "The Council requires that all development contributes positively to the quality of the environment and will ensure that development does not have a significantly negative impact upon residential amenity". Para 127 of the NPPF which states that developments should provide a high standard of residential amenity for existing and future users.

The development is situated at the ground floor of terrace property with predominantly residential use at first floor level. Whilst the proposal is for the same use class as existing it is considered that the proposed use as an restaurant would have a larger impact on surrounding residential area than that an existing Cafe with no cooking of food in premises. Restricting hours and details of kitchen ventilation extraction system, together with noise (if any) produced by the ventilation system, will be secured by condition. In addition, the applicant confirmed the operational trading hours which are from 10am to 10pm from Monday to Saturday.

The development is not considered to have unacceptable impacts on the residential amenity of any neighbouring properties and would comply with policies D DM1 and QE DM1.

HIGHWAYS & PARKING:

Arun Local Plan policy T SP1 seeks to ensure development: provides safe access on to the highway network; contributes to highway improvements & promotes sustainable transport, including the use of low emission fuels, public transport improvements and the cycle, pedestrian and bridleway network. In respect of parking, it states:

"The Council will support transport and development which: incorporates appropriate levels of parking in line with West Sussex County Council guidance on parking provision and the forthcoming Arun Design Guide taking into consideration the impact of development upon on-street parking"

Policy T DM1 requires that development be located within easy access of established non-car transport modes/routes and also seek to contribute to the improvement of such routes & facilities.

Para 108 of the NPPF states: "In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that: (b) safe and suitable access to the site can be achieved for all users". Regard should be had to para 109 which states: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

Parking Standards Supplementary Planning Document, January 2020 states in Principle 1:

2.12 Parking provision should be sufficient to accommodate demand whilst exploiting the potential for sustainable travel, minimizing adverse effects on road safety and avoiding increased on-street parking demand.

The plan does not indicate any provision of parking spaces, however the development comprises the same arrangement of seating area with 24 covers as previously approved and it is not considered that the use would result in a severe intensification of use of the site or result in any capacity issues on the public highway. Three off-street cycle spaces are shown in a covered vehicular access to the side of the

unit, but these are outside the application boundary and do not form part of the application.

SUMMARY

In summary, the evidence submitted by the applicant indicates that the reasonable attempts have been made to market the premises for a period of 4 years, during which time the rent has been reduced and one expression of interest made for a cafe. The proposed change of use would enable a vacant unit to be brought back into use, which is consistent with the general thrust of the NPPF to support economic growth. It is recommended consent is granted, subject to the conditions below.

HUMAN RIGHTS ACT

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

SECTION 106 DETAILS

A Pagham Harbour contribution would not be appropriate; there is no increase in residential units.

CIL DETAILS

This application is in CIL Zone 4 (Zero Rated) as 'other development'.

RECOMMENDATION

APPROVE CONDITIONALLY

1 The development hereby permitted shall be begun before the expiration of 3 years from the

date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

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

Location Plan

Block Plan

RB/DE/191/12/B, Proposed Ground Floor Plan

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy D DM1 of the Arun Local Plan.

- 3 The use hereby permitted shall not be carried on unless and until details of a suitable system for the extraction of cooking odours (including details of the extract fan units, filters, extraction hoods and ducting together with method of noise abatement) has been submitted to and approved in writing by the Local Planning Authority. The equipment approved under this condition shall be installed by a competent engineer before the use hereby permitted commences and thereafter shall be retained maintained in accordance with the manufacturer's instructions.

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Reason: To protect the amenity of local residents in accordance with Policy QE DM1 of the Arun Local Plan 2011 - 2031

- 4 No commercial goods shall be loaded, unloaded, stored or otherwise handled and no vehicles shall arrive or depart, within the application site outside the hours 07:00 to 19:00 Monday to Friday, 08:00 to 18:00 Saturday or at any time on Sunday or Public or Bank Holidays.

Reason: To protect the amenity of local residents in accordance with policies QE SP1 and QE DM1 of the Arun Local Plan

- 5 No plant or equipment, including the kitchen ventilation and extraction system, shall be operated on the premises except between the operational trading hours of Monday to Saturday from 10am to 10pm.

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Reason: To protect the amenity of local residents in accordance with Policy QE DM1 of the Arun Local Plan 2011 - 2031.

- 6 INFORMATIVE: The business is required to submit a 'Food Registration Form' to the Environmental Health department 28 days before opening. Further advice can be given to the business, for example, on the internal layout of the food premises. If the applicant would like further advice please contact the Environmental Health Service on (01903) 737755

[www1.arun.gov.uk/officeforms/EH_FoodBusinessApplication.ofml?id="+Math.random\(\)](http://www1.arun.gov.uk/officeforms/EH_FoodBusinessApplication.ofml?id=)

- 7 INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in

accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.