

Recommendation Report for Planning Permission

REF NO: BR/11/14/

LOCATION: Nyetimber Mazda
33 Chichester Road
Bognor Regis

PROPOSAL: Installation of new external refrigeration condenser, refrigeration pack and 3 no. new a/c units at rear.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

As above. The new external refrigeration condenser, refrigeration pack and 3 no. new a/c units will be enclosed by a 2.7m high close boarded fence. The proposed works result in the loss of 3 parking spaces from the car park.

SITE AREA

890 sq metres.

TOPOGRAPHY

Predominantly flat but the land rises slightly from Chichester Road and there is an approx. 0.5m high retaining wall in this part of the site.

TREES

None of any significance affected by the proposed development.

BOUNDARY TREATMENT

Open to the front and sides. To the rear boundary with 86 Hillsboro Road, there is a part 1m, part 2m high brick wall.

SITE CHARACTERISTICS

Nyetimber Part Exchange Centre (formerly Nyetimber Mazda), an existing car showroom/sales centre with ancillary car repair/servicing garage behind. There is a residential flat on the floor above the main showroom. To the rear of the site there is hardstanding parking capable of accommodating 16-18 cars.

CHARACTER OF LOCALITY

Main road. Predominately residential but with a children's nursery on the corner of Town Cross Avenue & Chichester Road to the northwest, an ambulance station and a Chinese takeaway on the other side of Chichester Road.

The site is bordered by Chichester Road on the north eastern side, Hillsboro Road on the south eastern side, 86 Hillsboro Road to the southwest and Waltham House (comprising

Acorn Electrical Wholesale Ltd & one empty commercial unit) to the northwest. 86 Hillsboro Road has no flank windows overlooking the site. It is a bungalow and its ground floor flank windows simply look out on the boundary wall (at a distance of 0.9m from windows to wall).

RELEVANT SITE HISTORY

BR/249/13/	Change of Use of ground floor from Motor Vehicle Sales & Servicing/Repairs (Sui Generis) to A1 (Shops) Food Retail	ApproveConditionally 18-12-2013
BR/8/14/	Alterations to existing shopfront including installation of a new automatic single sliding entrance door and external ATM.	ApproveConditionally 27-03-2014
BR/55/14/A	2 No externally illuminated fascia signs, 1 No externally illuminated car park signage and 1 No externally illuminated replacement signage to existing totem	ApproveConditionally 08-05-2014

BR/249/13/ allowed for the change of use of the building from a car sales show room to a A1 retail shop. The LPA are also currently determining applications for the site in respect of advertising and shop front changes.

REPRESENTATIONS

Representations received:

Bognor Regis Town Council

Bognor Regis Town Council - no objection but concerns were raised by members over the noise impacts this could have in a residential area.

Two letters of objection from residents (79 & 86 Hillsboro Road) both of which question the noise assessment. One of the letters goes on to raise concern over the impact on the parking provision and the lack of staff parking for the retained car sales element.

Comments on Representations received:

It is noted that the Environmental Health response states that "I would concur with the conclusion of the report that no expected adverse impact to existing residential amenity at 86 Hillsboro Road will be caused by the plant operation". However, a condition will be applied to ensure that the development is carried out in compliance with the applicants noise statement.

With regard to the car park, 3 spaces will be lost but application BR/249/13/ was approved in the knowledge that 3 of the 18 existing 3 spaces would be lost to accommodate the new plant requirements.

CONSULTATIONS

Environmental Health

Consultations responses received:

Arun DC Environmental Health - "I would concur with the conclusion of the report that no expected adverse impact to existing residential amenity at 86 Hillsboro Road will be caused by

the plant operation. It is probably unlikely that there will be significant impact upon other sensitive receptors. However, the report dismisses the closer existing residential dwelling above the store as the worst affected receptor as it is screened by the rear elevation of the building (2.04) with, in my view, insufficient justification. I would suggest further clarification is necessary."

Further clarification was sought from the agent and Environmental Health Officers replied to state that the information received was satisfactory. No conditions are required.

WSSC Highways - raise no objection to the additional parking space accessed from Hillsboro Road.

Comments on Consultation responses:

Comments noted.

POLICY CONTEXT

Designation applicable to site:

Within Built Up Area Boundary;
Class A Road; and
No Public Sewer.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:	GEN7	The Form of New Development
	GEN32	Noise Pollution
Publication Version of the Local Plan (October 2014):		

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework
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POLICY COMMENTARY

The above policies combine to describe the criteria against which the application will be assessed particularly with regard to visual and residential amenity.

The Development Plan consists of the Arun District Local Plan 2003.

Paragraph 215 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight. The weight afforded to the policies with Local Plan policies can be assessed according to their level of consistency of the various policies with the National Planning Policy Framework. It should be noted that the NPPF states that weight is given to individual policies and not to the plan as a whole.

NPPF Paragraph 216 confirms that weight can be given to policies in emerging plans following publication. The Council agreed the majority of the Arun Local Plan in February 2014 (Publication Version) and this is a material consideration in the determination of this planning application. The remaining chapters of the Local Plan namely: the Spatial Portrait, Employment & Enterprise, Housing Allocations, Transport, Monitoring and Implementation will be considered for publication at a later meeting of Full Council. Following 'publication' of the Local Plan a formal public

consultation, examination and adoption process takes place. The chapters that have been published will undergo public consultation alongside the remaining chapters when they have been agreed. The weight given to the current published policies can be significant depending:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);
- the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

The policies within this published version of the plan are at an advanced stage as they have been agreed by Full Council for regulation 19 consultation, they have been subject to independent audit and are considered to meet the NPPF and there are no known significant unresolved issues arising from regulation 18 consultation for the published policies.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The statement of representations procedure and statement of fact produced by the Council under regulation 19 explains that the consultation will take place once the remaining chapters / policies have been published.

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 considered to comply with relevant Development Plan policies in that it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it 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 warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

THE PROPOSAL

This is a follow up application to the change of use application approved in December 2013. That application was approved in the knowledge that further applications would be submitted with regard to advertising, shop front changes and external plant. It is therefore considered that the principle of the proposed external plant works has already been approved. It is therefore only necessary to have regard to noise and the impact on the existing approved parking provision.

IMPACT ON PARKING PROVISION

Application BR/249/13/ stated that the parking area would lose 3 parking spaces from the rear car park to accommodate the new plant and that therefore the parking provision would be 15 spaces. This was the figure agreed by West Sussex County Council and then by the planning committee.

The submitted application form states that there are presently 16 parking spaces and that 3 will be lost leaving 13. It is clear from aerial photography that the site does currently accommodate 18 vehicles and therefore a request was made to the applicant to provide the 15 previously promised. As a result, a parking layout has been submitted that shows 14 spaces in the rear car park and 1 new space in front of the building on Hillsboro Road. This new space is located in front of the entrance to the former car repair garage (which is to be blocked up). WSCC have been consulted on the position of the new space and raise no objections. There is therefore no objection to the loss of the 3 spaces from the rear car park.

NOISE

The report for BR/249/13/ stated:

"With respect to noise from plant, this will be subject to a future application at which time it can be controlled by submission of mitigation measures at the application stage or by planning condition".

And that:

"With respect to residential amenity, whilst it is acknowledged that there are properties which overlook the site, these are located on the opposite side of Hillsboro Road and as such they should not be subject to noise or disturbance above and beyond that which they might not otherwise expect in such a location close to Chichester Road. Number 86 Hillsboro Road does share a boundary with the site but has a 2m high brick wall between their house and the car park and this will protect their amenity. The residential flat above the existing showroom may be subject to greater noise and disturbance in say the evenings but the flat is located above and adjacent to existing commercial premises and acoustic insulation could be added to the ground floor ceiling to reduce noise disturbance. It should be noted that the applicant is the owner of this flat and the flat is occupied by a tenant".

The refrigeration condenser plant, refrigeration pack and A/C units have all been assessed by Environmental Health Officers who do not consider that there will be any adverse impact to either 86 Hillsboro Road or to the residential flats at first floor. Accordingly, the proposed plant/equipment are all considered to comply with Local Plan Policy GEN32 and the equivalent policy in the emerging Local Plan.

SUMMARY

There are no objections from statutory consultees to this application and on this basis despite the two neighbour objections; it is considered that permission should be granted.

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.

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:

Proposed south west elevation D/17;
Proposed south east elevation D/15;
Proposed ground floor plan D/12;
Existing south west elevation D/07;
Existing south east elevation D/05;
Existing ground floor plan D/02;
Location and Block plan D/01; and
Proposed Parking Layout D/90.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with GEN7, GEN32 of the Arun District Local Plan.

- 3 The development hereby approved shall be carried out in accordance with the submitted

Environmental Equipment Corporation Ltd "Plant noise assessment" dated 16 January 2014 and referenced TM/EC13108-003. The plant shall accord with the terms of this document and shall be maintained so as to ensure future compliance with the terms of the document.

Reason: To protect the amenities of occupiers of adjoining properties in accordance with Arun District Local Plan policies GEN7 and GEN32.

- 4 INFORMATIVE: Statement pursuant to Article 31 of the Town and Country Planning (Development Management Procedure)(England) (Amendment No. 2) Order 2012. 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.