

Recommendation Report for Planning Permission

REF NO: BR/17/26/PL

LOCATION: 74A Hawthorn Road
Bognor Regis
PO21 2DD

PROPOSAL: Retention of side store and covered pergola area. This application is in CIL Zone 4 (Zero Rated) as other development.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
SITE CHARACTERISTICS	The site comprises a ground-floor Class E (Formerly Class A3) Use. It currently serves as a restaurant with indoor and enclosed outdoor seating.
CHARACTER OF LOCALITY	The area is predominantly residential in use with a mix of terraced and semi-detached dwellings, with a Cemetery to the south/southeast, and an auto motor repair site to the northwest. Further to the northeast are a number of retail units.

RELEVANT SITE HISTORY

BR/215/15/PL	Change of use of ground floor from a taxi office (Sui Generis) to a mix use of Retail (A1) and Coffee Shop (A3).	ApproveConditionally 16-12-15
--------------	--	----------------------------------

BR/215/15/PL - This application granted the change of use for the unit in question from a taxi office (Sui Generis) to a mixed Class A3 use.

REPRESENTATIONS

Bognor Regis Town Council - No objection.

No representations from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Environmental Health - No objection.

WSSC Minerals and Waste Safeguarding - No comment.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designation applicable to site:

Built-up Area Boundary.

WSSC Mineral Consultation Areas (Permitted Waste Site 500m).

Pagham Harbour Zone B.

2km Buffer for Site of Special Scientific Interest (Bognor Reef).

DEVELOPMENT PLAN POLICIES

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

SDSP2	SD SP2 Built-up Area Boundary
DSP1	D SP1 Design
DDM1	D DM1 Aspects of form and design quality
DDM4	D DM4 Extensions and alter to exist builds (res and non-res)
HERSP1	HER SP1 The Historic Environment

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan 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. There are no policies of direct relevance within the Neighbourhood Development Plan.

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 development conflicts with relevant Development Plan policies in that it is visually incongruous with

the prevailing character of the area and does not integrate or sympathetically relate to the character of the building as a whole by virtue of being visually dominant relative to the remainder of the building.

The development complies with relevant Development Plan policies in that it would not prejudice the residential amenities of neighbouring occupiers, and would improve the economic viability of the use and the local business.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that

(2) in dealing with an application for planning permission the authority shall have regard to -

(a) the provisions of the development plan, so far as material to the application,

(aza) a post examination draft neighbourhood development plan, so far as material to the application,

(b) any local finance considerations, so far as material to the application, and

(c) any other material considerations.

OTHER MATERIAL CONSIDERATIONS

There are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

PRINCIPLE

The site is a restaurant within the Built-Up Area Boundary where the principle of development is acceptable, subject to the consideration of relevant Development Plan policies in accordance with ALP policy SD SP2.

CHARACTER AND VISUAL AMENITY

The development comprises an enclosed canopy surrounding the southwest, south, and southeast sides of the former outdoor seating area. It consists of low wooden crosshatch fencing topped with windows along the boundary, a canopy roof finished in felt/GRP that wraps over the eaves and sits behind large fascia advertisement boards, a single wooden access door, and black rainwater goods arranged in two tiers. The proposal also includes a single-storey side store extension above the brick boundary wall, finished in white plastic "shiplap" style boarding with a flat roof.

The side store extension is modest in scale and largely concealed by the brick boundary wall. Its limited visibility and small footprint mean it does not significantly harm the character or visual amenity of the area. Its white 'shiplap' material also relates reasonably well to the white rendered main building. This element is acceptable.

The enclosed canopy is visually prominent on the corner of Hawthorn Road, an area predominantly characterised by residential properties. This prominence is due partly to the stark wooden materials, but primarily to the large, brightly coloured fascia advertisements. The canopy does not materially encroach into the established sense of openness around the corner, as it maintains the footpath and follows a similar line to other boundary treatments in the locality.

Nevertheless, the canopy reads as visually prominent and has an awkward, unrefined appearance, incorporating features that are incongruous with the traditional architectural character of the area. The felt/GRP roof wrapping over the eaves, the multi-tiered black UPVC rainwater goods, and the asymmetrical layout of crosshatched fencing contribute to an informal and unrefined design. Consequently, the structure forms an incongruous and visually jarring addition within a predominantly traditional street scene.

The site has operated as a Class E unit since around 2015 and has historically displayed prominent advertisements and a commercial character that contrasts with surrounding residential uses. Such contrasts are not uncommon for corner plots, and smaller-scale restaurant/cafe/retail uses can coexist with residential areas. However, the current development draws greater attention to the unit due to its increased size, bulk, and expanded advertisements, further emphasised by their vibrant colour palette, although this reflects the Portuguese branding of the current business.

Historic images show that the development has evolved incrementally without planning permission, leading to this retrospective submission.

In 2020, the hardstanding surrounding the unit comprised a modest outdoor seating area bordered by small planters which gave function to this area of the site without adding any significant bulk to the building or compromising the visual amenities of the area.

By 2022, the seating area was enclosed with low crosshatched fencing and a canopy roof - still retaining a sense of openness. Views of the building remained largely unobstructed above the fence line, and the structure appeared lightweight and ancillary, providing some shelter to the outdoor seating while also accommodating larger advertisements and retaining an outdoor seating character. While prominent, this iteration did not unduly harm the area's visual amenity.

The current format has since introduced windows with thick vertical framing and clear plastic 'glazing', which reflects light more strongly than glass, serves to more greatly obstruct views of the building behind. This, combined with the more formalised felt/GRP roof and rainwater goods, the structure now reads less as shelter for outdoor seating and more as a lightweight single-storey extension. This enclosed character is uncharacteristic for the area and contrasts with the generally undeveloped/landscaped frontages of neighbouring properties.

Although subservient to the main building, the enclosed canopy is not visually integrated with, nor sympathetic to, the character of the overall building. Its materials and prominence contribute to a dominant and discordant appearance. While similar issues were present in 2022, the structure then retained a lighter, more ancillary quality that has now been lost.

The development, overall, is in conflict with ALP policies D SP1, D DM1, and D DM4.

NEIGHBOURING RESIDENTIAL AMENITY

The development is not of a scale or position that results in unacceptable overbearing, overshadowing or overlooking impacts on any neighbouring properties.

Environmental Health raise no objection. The previous outdoor seating already generated some activity, and the added enclosure is likely to contain modest noise levels associated with its use.

The proposal is in accordance with ALP policies QE SP1 and D DM1.

EMPLOYMENT AND ECONOMY BENEFITS

The added enclosure increases the usability of the outdoor seating area and supports the economic viability of the business. The unit is small in scale and is likely to primarily serve a more local customer base. Officers note no objection has been received from residents or the Town Council.

Although economic and retail ALP policies are not directly applicable to the assessment of this application as they either apply to non-retail uses or are confined to specific spatial regions within the District, Paragraph 85 of the NPPF states that planning decisions should support business investment, expansion and adaptation, giving significant weight to economic growth and productivity.

The development would therefore contribute to the viability and modest growth of the local business. This benefit is given moderate weight in the overall planning balance.

HERITAGE

The site lies adjacent to a Non-Designated Heritage Asset (Entrance walls and gates to the Cemetery, Hawthorn Road). While the development is visible within their context, the significance of this asset is best read within the context of the cemetery itself, facing north. The enclosed canopy itself has a neutral impact on the asset, with the advertisements being a more prominent and eye-catching feature that may draw attention away from the asset when viewed from within the cemetery or along Hawthorn Road together. This has some minor impact on their significance, but the siting of bright fascia advertisement boards on the property has been present for a many years, albeit in a more discrete manner.

Paragraph 216 of the NPPF requires the effect of an application on the significance of a non-designated heritage asset to be taken into account, and a balanced judgement to be made having regard to the scale of any harm to the significance of the heritage asset.

On balance, the proposal would not have an unacceptable impact on the significance of the heritage asset. This is in accordance with ALP policy HER SP1.

MINERALS AND WASTE

The site lies within a consultation area for the Alderton's Yard Permitted Waste Site. WSCC Minerals and Waste Safeguarding have issued no comment on the proposal's potential impacts on this site. Given the scale and nature of the proposal, it would have no impact on the Permitted Waste Site and warrants no further assessment against the policies of the West Sussex County Council's Waste Local Plan.

SUMMARY

Overall, while the enclosed canopy has resulted in harms to the visual amenity of the area, the differences between the development as it was in 2022, which would likely have been acceptable, and now, are limited. Although, the changes that have occurred have had a notably detrimental impact.

While a detrimental visual impact has been identified, it is noted that there is no public objection to the development as a whole, either from residents or the Town Council. Furthermore, the business provides local economic benefits and is positively regarded by customers.

On balance, the visual harm is not sufficient to warrant refusal when weighed against the public benefits. Approval is therefore recommended, subject to conditions and informatives.

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 approved shall be carried out in accordance with the following approved plans:

- Location and Block Plans JP/PL/04.
- Floor Plans JP/PL/01.
- Elevations JP/PL/03, Rev 02.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Arun Local Plan policies D DM1 and D DM4.

- 2 Based on the information available, this permission is exempt from the requirement to provide a biodiversity gain plan under Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990. The following exemption applies:

This planning permission is de-minimis as the development does not impact an onsite priority habitat and the development impacts less than 25 square metres of onsite habitat that has a biodiversity value greater than zero and less than then 5 metres in length of onsite linear habitat.

Reason: In accordance with Schedule 7A of the Town and Country Planning Act 1990 (as amended).

- 3 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). 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 NPPF.