

Recommendation Report for

REF NO: BR/199/17/PD

LOCATION: 5-7 Station Road
Bognor Regis

PROPOSAL: Application for prior notification under Class C for change of use from Shop (A1) to Restaurant (A3)

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Change of use under Schedule 2, Part 3, Class C of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) from Class A1 (shop) to a A3(Restaurants and Cafes).
SITE AREA	250m2. The area forming part of the application for use to be changed is 125m2 approximately.
BOUNDARY TREATMENT	1.5 brick wall to sides and rear. None to front. Property bounds the highway.
SITE CHARACTERISTICS	Ground floor and rear outside area of 5-7 Station Road which is two, two storey terrace buildings within Bognor Regis Town Centre. The site is located on the corner of Station Road and Crescent Road. Residential flats are located on the first floor of the building and ground floor currently has A1 use. And was previously operated as a Butchers.
CHARACTER OF LOCALITY	Town centre location formed mainly of two storey terraced buildings with residential on first floors and commercial on ground floor. Crescent Road is formed of two storey residential dwellings.

RELEVANT SITE HISTORY

BR/804/70	Sectional cold room to serve shop	Approve 09-02-1971
BR/20/84	New shopfront	ApproveConditionally 29-02-1984

None directly relevant.

REPRESENTATIONS

Representations received:

No comments made.

Four letters of public representation received. Three object on the grounds of:-

- existing Turkish restaurant and takeaway may lose custom should the application be allowed,
- too many restaurants and takeaways in this location

One supports on the grounds that the new use will be for a quality restaurant.

Comments on Representations received:

Comments noted.

Schedule 2, Part 3, Class C of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) does not allow the Council to object to the application on the grounds of over intensification of restaurant use unless the site is within a key shopping frontage which it is not.

The Council cannot object to this application on the grounds of the potential type or quality of restaurant that may be opened should no objection be reached by the Council on this application.

CONSULTATIONS

Environment Agency
WSCC Strategic Planning
Environmental Health
Environmental Health

Consultations responses received:

Environmental Health

No objections to this in principle. However I note that it looks likely to be a premises serving Fish and Chips and that the applicant has shown on the plans where the ducting for the kitchen ventilation will be. As there are residential premises above, there is the potential for both noise and odour to affect the residents of the flats. Please could the applicant submit further details to allow assessment of the proposed extraction unit to be carried out.

I would direct the applicant to the DEFRA guidance 'Guidance on the Control of Odour and Noise from Commercial Kitchen Extract Systems, January 2005). Should this information not be forthcoming, Environmental Health would be likely to object on the grounds of insufficient information on noise.

Second comments (following submission of additional information):

Regarding the control of odour and noise from the above site I would suggest that the following condition be applied:

1. Before the use hereby permitted begins, equipment to control the emission of noise and odour from the premises shall be installed in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority. All equipment installed as part of the

approved scheme shall thereafter be operated and maintained in accordance with that approval and retained for so long as the use continues.

WSSC Strategic Planning (Highways)

The change of use will not have a material impact upon the operation of the local highway network. No objection is raised.

Comments on Consultation responses:

Comments noted. The condition is considered to be reasonable and necessary to be imposed given their is residential properties at the first floor and to the rear.

POLICY CONTEXT

Designation applicable to site:
Within the built up area boundary.

DEVELOPMENT PLAN POLICIES

[Arun District Local Plan 2003:](#)

PLANNING POLICY GUIDANCE

NPPF
NPPG

National Planning Policy Framework
National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

A new local plan is in preparation may be a material consideration when determining Planning Applications. At this stage the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and supporting documents were submitted for independent examination on 30 January 2015. The Examination into the submitted plan was commenced but is currently suspended whilst Arun District Council addresses matters raised by the Inspector.

A number of Main Modifications to the Arun District Local Plan 2011-2031 (Publication Version) October 2014 were approved by the Council on 22nd March 2017 and consultation on these has taking place. The Main Modifications should be read alongside the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and where there are changes the Main Modification may also be material consideration to take into account. The examination is due to re-commence in Autumn 2017 following publication of modifications to the Plan.

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

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area and policies within them will be considered in determining planning applications. Made NDP policies will be considered

alongside other development plan documents including Arun District Council's Local Plan. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation(Reg.14).

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton. The written Ministerial Statement of 13 December 2016 confirms that relevant policies for the supply of housing in Neighbourhood Plans should not be deemed to be out of date where all of the following circumstances arise;

- The NDP has been part of the development plan for 2 years or less or the ministerial statement is less than 2 years old
- The NDP allocates sites for housing
- The Council can demonstrate a three-year supply of deliverable housing sites

Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation(Reg.14).

No NDP policies are relevant to this application.

OTHER MATERIAL CONSIDERATIONS

This application falls to be determined under the provisions of Schedule 2, Part 3, Class C of the Town and Country Planning (General Permitted Development) Order 2015 in respect of a development consisting of a change of use of a building and any land within its curtilage to a use falling within Class A3 (restaurant) of the Schedule to the Use Classes Order from a use falling within Class A1 (shops) or Class A2 (Financial and Professional Services) of that schedule.

The principle of the development is not in dispute. Class C allows for the change of use (and limited building operations) provided that:

- (a) the cumulative floor space of the existing building changing under Class C exceeds 150 sq metres;
- (b) the development (together with any previous development under Class C) would result in more than 150 sq m of floor area in the building having changed use under Class C.
- (c) the land or the site on which the building is located is or forms part of -
 - i) a site of special scientific interest
 - ii) a safety hazard area; or
 - iii) a military explosives storage area
- (d) the site is, or contains, a scheduled monument, or
- (e) the land or building is a listed building or is within the curtilage of a listed building.

The above criteria are considered to have been met.

Class C.2 (1) states that an application must be made to determine whether or not the prior approval of the Council will be required in respect of:

- (a) noise impacts of the development
- (b) odour impacts of the development
- (c) impacts of storage and handling of waste in relation to the development
- (d) impacts of hours of opening of the development
- (e) transport and highways impacts of the development,
- (f) whether it is undesirable for the building to change to a use falling within Class A3 (restaurant) because of the impact of the change of use - (i) on adequate provision of retail shops or (ii) the sustainability of that shopping area.
- (g) the siting, design or external appearance of the facilities to be provided for ventilation/extraction and storage of rubbish

The Order also states that the provisions of Paragraph W shall apply in relation to any application and part (10) of paragraph W includes the following:

"(10) The local planning authority must, when determining an application

(a) take into account any representations made to them as a result of any consultation under subparagraphs (5) or (6) and any notice given under sub-paragraph (8);

(b) have regard to the National Planning Policy Framework issued by the Department for Communities and Local Government in March 2012(a), so far as relevant to the subject matter of the prior approval, as if the application were a planning application; and

(c) in relation to the contamination risks on the site

(i) determine whether, as a result of the proposed change of use, taking into account any proposed mitigation, the site will be contaminated land as described in Part 2A of the Environmental Protection Act 1990(b), and in doing so have regard to the Contaminated Land Statutory Guidance issued by the Secretary of State for the Environment, Food and Rural Affairs in April 2012(c), and

(ii) if they determine that the site will be contaminated land, refuse to give prior approval."

(2) Where the development proposed is development under Class C(a) only, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the items referred to in sub-paragraphs (1)(a) to (f) and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

(3) Development under Class C is permitted subject to the condition that development under Class C(a), and under Class C(b), if any, must begin within a period of 3 years starting with the prior approval date.

This allows the local planning authority to have regard to any representations received and the NPPF but only in relation to the issues stated above. Advice has been received from the DCLG which confirms that it is not possible to refuse prior approval on the basis of an issue/impact not listed above. The Local Planning Authority has 56 days to provide its comments to the applicant's agent or it is deemed that they have no objection.

CONCLUSIONS

IMPACTS OF NOISE, ODOUR, STORAGE AND OPENING HOURS

Environmental Health have recommended a pre-occupation condition requiring details of the proposed extraction flue and facility which will be imposed to protect the amenities of the adjoining and neighbouring residential dwellings.

No objection has been raised regarding the hours of opening which have been specified as 11am to 11pm Monday to Saturday and 11am to 10pm on Sundays. These hours are considered reasonable and will be controlled via condition.

TRANSPORT AND HIGHWAYS

The use of the property as a restaurant is not considered to generate a significant additional level of parking pressure beyond that of the existing A1 use for which the property already has permission. As such it is considered to be acceptable in highway and transport terms.

SUITABILITY OF CHANGE OF USE

The site is situated within a secondary shopping area, not a located in a key shopping area and as such sustainability is not a necessary consideration. There are many retail units in the vicinity of the application site and in the nearby primary shopping areas of Bognor Regis Town Centre such that the loss of this unit would not have an undesirable impact.

DESIGN AND VISUAL AMENITY

The siting, design or external appearance of the facilities for ventilation/extraction and the storage of rubbish, subject to conditions providing final detail are considered sympathetic and in keeping with the established character of the locality. Therefore, no objections are raised in relation to the design of the proposal.

NPPF

The proposal for the change of use is considered to comply with the National Planning Policy Framework 'so far as relevant to the subject matter of the prior approval'.

CONTAMINATION

There are no issues of land contamination relevant to this prior notification.

SUMMARY

It is therefore recommend that no objection is raised to the proposal subject to conditions.

HUMAN RIGHTS ACT

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

NO OBJECTION SUBJECT TO CONDITIONS

- 1 The A3 restaurant use shall only be open between the hours of 11am and 11pm Mondays to Saturdays and hours of 11am to 10pm hours on Sundays.

Reason: To protect the amenities of occupiers of adjoining properties in accordance with the National Planning Policy Framework and in compliance with Town and Country Planning (General Permitted Development) Order 2015 (as amended).

- 2 Before the A3 use hereby permitted becomes operational, equipment to control the emission of noise and odour from the premises shall be installed in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority. All equipment installed as part of the approved scheme shall thereafter be operated and maintained in accordance with that approval and retained for so long as the use continues.

Reason: To protect the amenities of occupiers of adjoining properties in accordance with the National Planning Policy Framework.

- 3 For the avoidance of doubt the approved details are:- 068_PD_02, SCE and 068_P_04.