Recommendation Report for Planning Permission

REF NO: **BR/202/12/**

LOCATION: Shake & Bake Kiosk
The Esplanade
Opposite Mountbatten Court Bognor Regis

PROPOSAL: Catering kiosk (non-fixed) and retention of adjoining decking area for customers.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Proposed alterations to the self-contained catering kiosk which measures approximately 7.6m in width, depth of 2.25m with a maximum height of 2.7m including a green and orange alternating film wrap, proposed roof structure and decking area to the west.
SITE AREA	Approximately 54 square metres.
RESIDENTIAL DEVELOPMENT DEN	N/A
TOPOGRAPHY	Predominantly flat
TREES	None.
BOUNDARY TREATMENT	Promenade is open to the south and sides, rear has concrete plinth wall with handrail.
SITE CHARACTERISTICS	Catering unit with decking area on western side.
CHARACTER OF LOCALITY	Beach to south of promenade which has a mixture of catering units, deck chair store and seating areas. To the east is the bandstand with foreshore office/first aid post. On northern side apartments, Place St Maur and the Bognor Regis Centre.

RELEVANT SITE HISTORY

None.

REPRESENTATIONS

Representations received:

Bognor Regis Town Council

No objection.

Comments on Representations received:

None.

CONSULTATIONS

Senior Estates Surveyor
Environmental Health

Concessions Officer
Economic Regeneration

Consultations responses received:

Concessions Officer
Awaited

Economic Regneration
Awaited

Comments on Consultation responses:

None

POLICY CONTEXT

Designation applicable to site:

Built Up Area Boundary
Class C Road

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:	GEN2	Built-up Area Boundary
	GEN7	The Form of New Development

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework

POLICY COMMENTARY

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

The Development Plan consists of the Arun District Local Plan 2003 and the South East Plan adopted in 2009. It should be noted that the Arun District Local Plan was adopted in 2003 and the South East Plan in 2009.

In accordance with paragraphs 214 of the NPPF, the South East Plan is afforded full weight as part of the development plan. Footnote 41 (page 49) states the Governments clear policy intention to revoke regional strategies.

Paragraphs 214 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight but, because it predates 2004, a reduced 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 Frameowork. It should nbe noted that the NPPF states that weight is given to individual policies and not to the plan as a whole.

The emerging local plan has recently been approved by the Council and is therfore a material consideration in the determination of this planning application. Whilst it has not been fully adopted due weight has been given to its policies in terms of the decision making process at this stage.

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

BACKGROUND

Members should be aware that the council has as far as possible coordinated concession leases along the Bognor Regis seafront so that they expire in December 2014 pending a revitalised seafront for the season of 2015 onwards. The Shake & Bake concession presently does not have planning permission and the concessionaire has been asked like others to obtain planning permission so that the use of the land is regularised. In the event planning permissions can be granted they will be time limited so that they dovetail with the expiration of the leases in December 2014. Where concessionaires have been made aware that planning permission is required they have been advised that the grant of permission is not automatic particularly where the concession is deemed to be out of character or unsympathetic to the seafront. Where concessions are of a trailer/box design and of plain colour, Officers have made it clear that they are unlikely to comply with planning policy and have suggested cladding elevations, the use of sympathetic shades of colours and fake roofs to enhance both the character and the visual amenities of the seafront for visitors and residents of the town alike.

LOCALITY

The single storey catering unit is sited on the western end of the promenade and to the west is a decking area that provides a seating area for the customers. To the east are several catering units with seating areas, Bandstand and the foreshore/first aid post.

PROPOSAL

The existing unit which has a flat roof is of white metal construction with green and orange writing advertising the 150+ milk shakes that are available. There are two serving hatches on the front noth elevation with a serving hatch on the eastern side and a door on the rear. The proposal is for the cladding by way of a vinyl wrap/film which will be applied to four sides of the unit consisting of alternating green & white and orange & white horizontal stripes which is the colour of the existing logo. A new pitched roof will be applied on the existing flat roof with the installation of new signage.

VISUAL AMENITY

There are various units along the promenade that provide catering facilities for residents and tourists to the town. The existing unit by way of its container appearance is considered to be incongrous and not in keeping with other facilities along the promenade and the installation of cladding and new roof would greatly enhance its appearance.

It was recommended to the Applicant that the unit be clad in sympathetic materials/colours to assist in disguising the units origin. The Applicant chose not to provide cladding and instead has proposed to vinyl wrap the unit and despite repeated requests no sample has been forthcoming. The Applicant has only provided colour codes but the supplier remains uninformed. As such it is difficult to assess the quality or colour shades. Also no details have been provided for the new roof, signage, materials or colours.

CONCLUSION

Overall the proposed changes are considered to be of a poor quality and are likely to result in a poor finish that would not achieve the visual enhancement being sought.

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 and Article 1 (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with the applicant's 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 a neutral impact has 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).

RECOMMENDATION

REFUSE

1 The proposed alterations to the kiosk are considered to be of a poor quality and lacking in detail. As such the resultant kiosk would detract from the seafront and would be

detrimental to the character and appearance of the locality contrary to policy GEN7 of the Arun District Local Plan and Paragraph 64 of the National Planning Policy Framework.

2 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 identifying matters of concern with the proposal and discussing those with the Applicant. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. However, the Local Planning Authority has clearly set out, within its report, the steps necessary to remedy the harm identified within the reasons for refusal which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.