

Recommendation Report for Planning Permission

REF NO: BR/21/18/PL

LOCATION: 91-93 Hawthorn Road
Bognor Regis
PO21 2BE

PROPOSAL: Change of use of ground floor from vacant shop (A1 Shops) to take away (A5 Hot Food Take Away) to include roof mounted condenser & flue to side elevation.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above but including a replacement shop front with green RAL6029 frames and glazed panels. The Flue will extend 1m above the height of the first floor eaves. A fenced bin store is to be provided within the existing rear yard.
SITE AREA	115 square metres.
TOPOGRAPHY	Predominantly flat.
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	Rear enclosed yard and 1.8-2m high close boarded fencing on the boundary with 95. Otherwise built right up to the boundaries.
SITE CHARACTERISTICS	Two storey semi-detached building with retail unit (formerly in use as one half of a retail convenience store) at ground floor. Existing first floor flat (no. 93) accessed from the rear yard area by existing steel staircase and walkway over the top of the existing flat roofed single storey rear projection. Existing glazed shop front with grey painted frames. White rough rendered first floor front. Clay tile roof. Unallocated public layby parking along the frontage.
CHARACTER OF LOCALITY	Part of an existing row of former dwelling houses with retail uses at ground floor and flats above/to the rear. Predominantly residential area of Bognor Regis. The adjoining property, no. 91a, is occupied by a hair salon and has a flat above. To the southwest, the next building is occupied by another hair salon and a Chinese takeaway.

RELEVANT SITE HISTORY

BR/70/18/A	1 No. internally illuminated fascia sign & 1 No. internally illuminated projecting sign on front elevation.
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BR/179/08/A	Application for 1 no. internally illuminated free standing	ApproveConditionally
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double sided display unit.

31-07-08

BR/296/91

Single storey rear extension

ApproveConditionally
25-11-91

Whilst not forming part of the site history, regard should be had to application BR/58/99/ which allowed permission for the Chinese takeaway a few metres away to the southwest. It is noted that this was approved with opening hours of 11am to 11pm and with no restrictions on deliveries.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Bognor Regis Town Council

"No objection".

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

Environmental Health

Economic Regeneration

CONSULTATION RESPONSES RECEIVED:

ADC ECONOMIC DEVELOPMENT - No comments received.

ADC ENVIRONMENTAL HEALTH - No objections subject to following 6 conditions:

"1. The use hereby permitted shall not be commenced until the equipment detailed in 'Supporting Information on the Proposed Extraction System and Plant at 91-93 Hawthorn Road, Bognor Regis, PO21 2BE' dated June 2016 to discharge odours and fumes from the cooking process shall have been installed and be in full working order to the satisfaction of the Local Planning Authority.

2. The extraction equipment installed in pursuance to Condition Number 1 above shall be regularly maintained to ensure its continued satisfactory operation and the cooking process shall cease to operate if at any time the extraction equipment ceases to function to the satisfaction of the Local Planning Authority.

3. The drainage serving kitchens at commercial hot food businesses shall be fitted with a grease trap/separator of a proportionate capacity to effectively contain grease residue arising from the estimated numbers of hot meals served and waste water flow rate. The applicant shall provide the Local Planning Authority with details of their proposed grease trap/separator in order to demonstrate design and installation will be in compliance with BS EN 1825-1:2004, & BS EN 1825-2:2004

4. The use of the premises shall be restricted to the hours of 11.00 to 23.00 daily.

5. All plant, machinery and equipment installed or operated in connection with the carrying out of this permission shall be so enclosed and/or attenuated so that the rating level of noise emitted does not exceed the background sound level, when measured according to British Standard BS4142: 2014 at any

adjoining or nearby noise sensitive premises.

6. No deliveries taken at or dispatched from the site except between the hours 11.00 - 21.00 Monday to Saturday and not at any time on Sundays, Bank or Public Holidays."

COMMENTS ON CONSULTATION RESPONSES:

In respect of point 6, it is not considered reasonable to restrict deliveries to the stated times as the nearby Chinese takeaway is not subject to the same restriction.

POLICY CONTEXT

Designations applicable to site:

Within Built Up Area Boundary; and
Class C Road.

DEVELOPMENT PLAN POLICES

[Arun District Local Plan \(2003\):](#)

GEN2	Built-up Area Boundary
GEN7	The Form of New Development
GEN12	Parking in New Development
GEN32	Noise Pollution
GEN33	Light Pollution
GEN34	Air Pollution
DEV26	Criteria for Retail Development
DEV27	Retail Development Outside the Principal Shopping Areas

[Publication Version of the Local Plan \(October 2014\):](#)

D DM1	Aspects of Form and Design Quality
D DM4	Extensions & Alterations to Existing Buildings
D SP1	Design
ECC SP2	Energy and climate change mitigation
QE DM1	Noise Pollution
QE DM2	Light Pollution
QE DM3	Air Pollution
QE SP1	Quality of the Environment
RET DM1	Retail Development
SD SP2	Built -Up Area Boundary
T SP1	Transport and Development

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	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 and is 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.

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 then subject to public consultation. The hearing sessions into the examination of the Arun Local Plan ended on Thursday 28 September 2017 and the Inspector then wrote to the Council to set out his 'Interim Views following the Hearings'. The plan was then modified further in January 2018 (Modified - Arun Local Plan - January 2018 Consultation) and these were subject to public consultation between 12 January 2018 and 23 February 2018.

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. 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.

There are no relevant Bognor Regis Neighbourhood Plan policies.

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

PRINCIPLE:

The site is in the built area boundary where the principle of development is acceptable subject to accordance with other relevant development plan policies which in this case would cover such issues as parking, residential amenity/pollution and design.

POLICIES RELEVANT TO THE NEW USE:

Local Plan policy DEV26 "Criteria for Retail Development" includes that "Applications for A3 uses will need to be accompanied by details of the provisions for the extraction of fumes and cooking odours and the provision of areas for the collection of waste". It should be noted that this policy was written at the time that Class A5 Takeaway uses formed part of Use Class A3. The application proposes a new flue to the side of the building and this will be connected to extraction equipment within the ground floor retail unit. A new fenced bin storage area is also shown within the existing rear yard alongside a separate bin store for the existing flat.

Local Plan policy DEV27 allows for non-food retail and food retail uses outside the principal shopping areas subject to various criteria. It is not considered that this proposal would breach any of these criteria as the new takeaway use would bring a currently empty property formerly occupied by a retail use back into use. This can only benefit the vitality of the existing parade of commercial properties and it is not considered that a small hot food takeaway such as this has the potential to adversely impact the health of Bognor Regis town centre.

The relevant policy in the latest version of the emerging Local Plan is RET DM1. In respect of sites outside of the defined Town Centres and Local Service centres, this states that changes of use that result in a loss of retail will not normally be permitted. Although this proposed new use will result in a loss of class A1 retail, the current premises is vacant and has been so since December 2016 with no formal offers. Furthermore, although falling within use class A5, the new use is still a form of retail and will attract customers to the premises during the day time and will employ staff. Therefore, it is considered that the proposed reuse of this premises will have a positive economic impact which outweighs the need to protect class A1 retail uses.

VISUAL AMENITY:

Arun Local Plan policy GEN7 states that planning permission will only be granted for schemes displaying high quality design and layout. Also that development must respond positively to the identified characteristics and resources of the site and the area to create attractive places and spaces with the needs of people in mind and that respects & enhances local distinctiveness.

The proposal makes a couple of alterations to the building in the form of a replacement shop front, a new 3.7m high, 0.5m wide galvanised flue on the side of the building, a side wall mounted fresh air intake grille and a 0.5m high condenser mounted on the rear flat roof.

The replacement shop front is not considered to be materially different in design to the existing. Both have glazed sections with aluminium frames. The only real difference is the change in colour from grey to green but this will not have any adverse impact on the street scene. The new air intake grille on the side of the building is a very small addition and will not be visible in the street scene. The condenser will also be a small scale addition and with it being sited on the rear flat roof, it will not be visible from Hawthorn Road. Furthermore, with it being set back along the roof so far, it will not be visible in the gap

between 87 Hawthorn Road and 50 Highland Road as from this viewpoint, only 2-3m of flat roof can be seen.

The new flue will be visible from the road and will therefore have an impact on the appearance of the building. However, it should be noted that the flue is to be set back from the front of the building by around 7m and will be located on the side of the building that faces the side of no. 95 which sits only 2m away. As a result of its siting in this narrow gap, it will have limited visibility in the street scene (only being really noticeable when viewing the property face on) and is considered to be in character with this parade of retail based properties.

It is therefore considered that the proposal will be in accordance with policy GEN7 of the local plan

RESIDENTIAL AMENITY:

Local Plan Policy GEN7 also requires that developments do not have an unacceptable adverse impact on adjoining occupiers, land, uses or property. Policy GEN32 protects against noise particularly where a potentially noisy use is located close to a residential property. Policy GEN33 seeks to avoid adverse impacts of lighting on neighbouring uses and this is applicable due to the late (11pm) opening times of the proposal. Meanwhile policy GEN34 serves to protect against air pollution including those from cooking odours. Regard should also be had to policy D DM4 of the emerging Local Plan which states that alterations to existing buildings should not have an adverse overshadowing, overlooking or overbearing effect on neighbouring properties.

Environmental Health are the Councils technical experts on pollution matters and they have raised no objection to the application. They did request a stipulation on delivery times with none after 9pm but this is considered to be unreasonable given the proposed opening hours until 11pm and the fact that the nearby Chinese takeaway has no restrictions on deliveries and that there is a public house only 70m away to the north east.

The proposed flue will sit on a wall adjacent to one of the first floor windows to the existing flat. However, this is not a window serving a principal room for which it would be important to avoid overshadowing. Furthermore, the flue will release odours well above the level of the window.

It is considered that the proposal will be in compliance with the relevant policies of the adopted and emerging Local Plans.

PARKING:

Local Plan policy GEN12 seeks to ensure that there are sufficient parking spaces for new developments but also states that a lower provision will be acceptable within town centre locations which are accessible by other forms of transport. The equivalent policy within the latest version of the emerging Local Plan requires development to "incorporate 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".

West Sussex County Council's parking standards state that A5 uses require a maximum of 1 space per 5 square metres of public area and that the accessibility of a site may provide justification for accepting a lower standard in appropriate circumstances. Therefore, the required parking provision would be 2 spaces.

The site does not benefit from any allocated parking and customers/staff would therefore be reliant on the public layby parking to the front or parking nearby on local roads. However, this is the same situation

as per the former retail convenience use which according to the WSCC standards, would have required 1 space per 20m² of retail floor space. It is also noted that there are bus stops within only 170m of the site and that the site is within walking distance of a large residential population.

On this basis, it is considered acceptable to allow a reduced car parking provision and as such, the proposal is considered to be in accordance with Arun Local Plan GEN12.

SUMMARY:

The proposed change of use is considered to be acceptable in principle within this out of town centre location. It is not considered that it would result in any significant loss of visual or residential amenity and the lack of allocated parking is considered to be acceptable given the circumstances of the case. Therefore, it is recommended that the application is approved subject to the following conditions.

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 plan: Drawing PJ/BOG/03 Rev A "Proposed Plan and Elevations".

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

- 3 The drainage serving the kitchens shall be fitted with a grease trap/separator of a proportionate capacity to effectively contain grease residue arising from the estimated numbers of hot meals served and waste water flow rate. Prior to the implementation of the approved use, the applicant shall provide to the Local Planning Authority details of their proposed grease trap/separator in order to demonstrate that the design and installation will be in compliance with BS EN 1825-1:2004, & BS EN 1825-2:2004. The details so approved shall be implement prior to the A5 use taking place.

Reason: In order to safeguard the amenities of neighbouring properties, in accordance with policy GEN7 (iv) and (v) of the Arun District Local Plan.

- 4 The use hereby permitted shall not commence unless and until the extraction equipment and flue as shown on drawing PJ/BOG/03 Rev A and detailed within the Papa Johns "Supporting Information on the Proposed Extraction System and Plant" (June 2016) has been installed and is in full working order. Thereafter, the approved extraction equipment/flue shall be regularly maintained to ensure its continued satisfactory operation and should it cease to function to the satisfaction of the Local Planning Authority then all cooking processes shall cease until such time as the problem has been satisfactorily rectified.

Reason: To ensure that the use does not result in excessive cooking odours outside the premises and that the amenity of occupiers of nearby properties is protected in accordance with Arun District Local Plan policies GEN7, GEN34 and DEV26.

- 5 All plant, machinery and equipment installed or operated in connection with the carrying out of this permission shall be so enclosed and/or attenuated so that the rating level of noise emitted does not exceed the background sound level, when measured according to British Standard BS4142: 2014 at any adjoining or nearby noise sensitive premises.

Reason: To safeguard the amenities of nearby residents in accordance with Arun District Local Plan policies GEN7 and GEN32.

- 6 The hot food takeaway use hereby permitted shall only be open between the hours of 11:00 and 23:00 in any one day.

Reason: To protect the amenities of occupiers of adjoining and adjacent properties in accordance with Arun District Local Plan policies GEN7, GEN32, GEN33 and GEN34.

- 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.

- 8 INFORMATIVE: The premises will require Registration under the Food Safety Act 1990 and will need to comply with the standards contained in the relevant Food Hygiene Regulations prior to becoming operational. The applicant is advised to contact The Food Safety Team at Environmental Health on Tel 01903 737755 or via E-Mail at Food.Safety@arun.gov.uk.