

Recommendation Report for Planning Permission

REF NO: BR/232/20/PL

LOCATION: 77 Aldwick Road
Bognor Regis
PO21 2NW

PROPOSAL: Change of use of ground floor shop premises from launderette (sui-generis) to Class E (commercial, business & service). This site is in CIL Zone 4 (Zero Rated) as other development.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The proposal is to convert the ground floor shop premises to Class E (commercial, business & service).
SITE AREA	0.02 ha
TOPOGRAPHY	Predominantly flat.
BOUNDARY TREATMENT	1.7m high wall with close boarded fence/timber with trellis top to the rear boundaries. Property abuts pavement to front.
SITE CHARACTERISTICS	Three storey grey rendered building situated on the southern side of Aldwick Road between its junction with Neywood Lane and Park Road with a dry cleaners at ground floor and two existing flats on the upper floors. Light grey brick flat roofed extension at ground floor to the rear. This part of the ground floor comprises storage and an office for the dry cleaners business. Small rear garden area accessed through a passage via Aldwick Road. No 77 is a mirror image of No 79 (white rendered) with a tunnel/walkway in the between providing an access to the rear of both of them. Restricted bay parking on Aldwick Road to the front.
CHARACTER OF LOCALITY	Predominantly three storey terraced properties with commercial uses at ground floor and residential above or within the rear extensions. Buildings are set in medium plots abutting the highway in an urban environment. To the rear residential dwelling alongside with some care-homes are lining Stocker Road with Nos 10 and 14/16 in an opposite of the proposal property. No 10 is a two and a half storey residential dwelling with rear garden and Nos 14/16 is a two and a half storey building converted into flats with a rear parking area and rear double garage; To the west is No 79, a counterpart of No 77 with commercial at the ground floor, residential above and ground floor garden flat to the rear. To the east Nos 73/75; commercial at the ground floor level with 9 residential flats at the first and second floor.

RELEVANT SITE HISTORY

BR/31/20/PL	Part change of use of ground floor & formation of a first floor rear extension to create 2 No. self-contained studio flats with associated refuse/recycling & cycle store (re-submission following BR/233/19/PL)	Refused 29-04-20
BR/233/19/PL	Part change of use of ground floor & formation of a first floor rear extension to create 2 No self-contained studio flats with associated refuse/ recycling & cycle store (resubmission following BR/63/18/PL).	Refused 19-12-19
BR/63/18/PL	First & second floor rear extension to create 3 No. studio apartments	Refused 06-07-18

BR/31/20/PL (re-submission following BR/233/19/PL) was refused for the same reasons and recently challenged by an appeal.

BR/233/19/PL was following a resubmission addressing partially the reasons for refusal by removing the proposed second floor, however the relationship to Nos 14/16 and 10 Stocker Road remained the same; this application has been recently refused and challenged by an appeal.

The reasons for refusal:

The height and scale of the proposed additional first floor extension to the rear of 77 Aldwick Road will result in an overbearing impact on, and loss of outlook to, the amenity of the existing windows of the first floor residential flats in the rear of 75 - 79 Aldwick Road. In the absence of a full BRE sunlight/daylight study there Local Planning Authority has not been satisfied that there will not be a demonstrable harmful loss of sunlight/daylight to neighbouring residential properties. The proposal is therefore contrary to policies D SP1, D DM1, D DM2 and QE SP1 of the Arun Local Plan and the National Planning Policy Framework.

The new first floor studio apartment window on the southern elevation of the building will look out towards the rear private amenity spaces of nos. 10 and 14/16 Stocker Road at a distance of around 8.8m. In the absence of requested sight line sections/diagrams the proposal will result in a loss of privacy to the adjacent amenity spaces of nos. 10 and 14/16 Stocker Close; contrary to Policies D DM1, D DM4 and QE SP1 of the Arun Local Plan and National Planning Policy Framework.

BR/63/18/PL proposed: 'Change of use of existing ancillary accommodation to the existing dry cleaners to new studio flat. Two more studio flats above. The extension will have a flat roof and will be 8.5m high. New bin and cycle store to rear.'

This was refused under delegated powers on 06 July 2019 for the following reasons:-

1. The scale of the proposed two additional floor extension to the rear of 77 Aldwick Road will result in an overbearing impact on - and loss of outlook to - the amenity of the existing windows of residential flats in

the rear of 73 - 75 Aldwick Road to the east and 79 Aldwick Road to the west. In addition, there will be a harmful loss of sunlight and overshadowing of the two large residential windows on the closest part of the rear of 79. The proposal is therefore contrary to policy GEN7 of the Arun District Local Plan; the National Planning Policy Framework; and policies D DM1 and D DM4 of the Arun Local Plan 2011-2031 Publication Version showing Modifications.

2. The new first and second floor studio windows will look out towards the rears of Nos 10 & 14/16 Stocker Road at a distance of only around 8.8m. This will result in a loss of privacy to number 10's private residential garden and the proposal is therefore contrary to policy GEN7 of the Arun District Local Plan; the National Planning Policy Framework; and policies D DM1 & D DM4 of the Arun Local Plan 2011-2031 Publication Version showing Modifications.

3. The new first and second floor kitchen, hall and stair windows will face towards the flank residential windows of 79 Aldwick Road, resulting in a loss of privacy to these windows and a harmful effect on the amenity of existing occupiers. The proposal is therefore contrary to policy GEN7 of the Arun District Local Plan; the National Planning Policy Framework; and policies D DM1 & D DM4 of the Arun Local Plan 2011-2031 Publication Version showing Modifications.

REPRESENTATIONS

No objection.

No letters of objection received.

COMMENTS ON REPRESENTATIONS RECEIVED:

N/A

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Environmental Health: no objection subject to suggested conditions (if the applicant is able to confirm the proposed business type and associated opening hours) and informatives.

Economic Regeneration: no comments

COMMENTS ON CONSULTATION RESPONSES:

Comments noted. No confirmation of proposed business type and associated opening hours has been provided by an applicant.

POLICY CONTEXT

Designation applicable to site:

- 2km Buffer of Bognor Reef SSSI
- Pagham Harbour Access Management Zone B
- Built up Area Boundary

DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

DDM1	D DM1 Aspects of form and design quality
DDM4	D DM4 Extensions&alter to exist builds(res and non-res)
DSP1	D SP1 Design
EMPDM1	EMP DM1 Employment Land: Development Management
ENVDM2	ENV DM2 Pagham Harbour
QESP1	QE SP1 Quality of the Environment
RETDM1	RET DM1 Retail development
SDSP1	SD SP1 Sustainable Development
SDSP2	SD SP2 Built-up Area Boundary
TSP1	T SP1 Transport and Development
WMDM1	WM DM1 Waste Management

Bognor Regis Neighbourhood Plan 2015 Policy 4 Reducing underuse of property in the town centre

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD11	Arun Parking Standards 2020
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POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans 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.

Bognor Regis has a "made" Neighbourhood Plan and policy 4 is taken into account.

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 not considered to conflict with the relevant Development Plan policies in that it would not have a materially adverse effect on the visual amenities of the locality and the residential amenities of the adjoining properties, and it would not 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 be weighed in the balance with the

CONCLUSIONS

PROPOSAL

The unit, a former dry cleaners, is located on the western fringe of Bognor Regis. Existing/proposed internal floorspace is 60 square metres. The floorplan indicates an open layout with a toilet to the rear. The site comprises of a ground floor unit within a three-storey mixed use building fronting onto Aldwick Road. The surrounding area is characterised by a mix of retail, commercial and professional services and residential. There are flats above the proposal site.

PRINCIPLE

The site is in the built up area boundary where development is acceptable in principle in accordance with policy SD SP2 of the Arun Local Plan 2011-2031 provided it accords with other policies of the Local Plan covering such issues as the change of use, visual/residential amenity, highway safety and parking.

The site forms part of an undefined retail frontage within suburban centre of Aldwick with a varied mix of shops, local Tesco store, takeaways, estate and letting agents and other uses like private business offices and a showroom.

Regard should be had to policy SD SP1 of the Arun Local Plan which states: "When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework." The site is in a sustainable suburban centre location in easy walking & cycling distance of a range of shops, facilities and services including bus stops.

The purpose of the NPPF is to contribute to sustainable development and to ensure that the planning system supports economic growth. Paragraph 9 stresses that planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. Local Planning Authorities should allow a rapid response to changes in economic circumstances.

The proposal is therefore considered to be compliant with relevant National and Local Planning Policy.

CHANGE OF USE FROM RETAIL TO CLASS E:

Class E is introduced from 1 September 2020 and in 11 parts more broadly covers uses previously defined in the revoked Classes A1/2/3, B1, D1(a-b) and 'indoor sport' from D2(e):

- E(a) Display or retail sale of goods, other than hot food
- E(b) Sale of food and drink for consumption (mostly) on the premises
- E(c) Provision of:
 - E(c)(i) Financial services,
 - E(c)(ii) Professional services (other than health or medical services), or
 - E(c)(iii) Other appropriate services in a commercial, business or service locality
- E(d) Indoor sport, recreation or fitness (not involving motorised vehicles or firearms)
- E(e) Provision of medical or health services (except the use of premises attached to the residence of the consultant or practitioner)
- E(f) Creche, day nursery or day centre (not including a residential use)
- E(g) Uses which can be carried out in a residential area without detriment to its amenity:
 - E(g)(i) Offices to carry out any operational or administrative functions,
 - E(g)(ii) Research and development of products or processes

-E(g)(iii) Industrial processes

Arun Local Plan (ALP) policy RET SP1 states that the expansion of Sub-urban Centres including shopping parades will be welcomed, provided that it adds to the range and accessibility of goods and services. ALP policy RET DM1 states for shops in the Sub-urban Centres change of use from retail will not be permitted. However, an exception may be made where it can be demonstrated that retailing is no longer a viable use, particularly where the premises have remained vacant for a long period and where reasonable attempts have been made to market the premises for retail purposes.

The unit has been in use as a Dry Cleaners (A1) but the applicant states that this closed on 01/05/20 and the unit has been vacant since then. In addition the proposed Class E use would enable a movement across to any other operations within Class E (that effectively replaced class A1, A2, A3, B1, D1 and D2). Therefore there would not necessarily be a change from A1.

Notwithstanding the applicant /agent in his Planning Statement considers the recent use as a sui generis, the ground floor has been classified as an A1 use (Dry Cleaners). In addition the description of proposal is controversial as well: 'Change of use of ground floor shop.....'

The Bognor Regis Neighbourhood Development Plan (BRNDP) policy 4 supports the reuse of currently empty or underuse properties,

Paragraph 118 (d) of the National Planning Policy Framework (NPPF) states that "Planning policies and decisions should: promote and support the development of under-utilised land and buildings ...". In addition, paragraph 85 states that: "Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation."

On the basis of the above, the proposed change of use does not mean a loss of retail floor space therefore the proposal is considered to be compliant in principle with Policy RET DM1 of the Arun Local Plan and relevant paragraphs of NPPF.

VISUAL AMENITY:

The proposal does not involve any external changes. The applicant confirmed that no operational development forms part of the application. No provision of parking spaces is made, however the proposal site is easily accessible by public transport.

As such, the proposed change of use would not have any unacceptable visual impact on the appearance of the building, the parade, and local area, in accordance with policies D SP1, D DM1 of the Arun Local Plan.

RESIDENTIAL AMENITY:

The commercial, business & service uses are in character with the existing shopping parade. The LPA acknowledges that new Class E covers 11 uses, therefore the site can be used as a restaurant, day nursery, medical-health services fitness and industrial process. However, in some uses mentioned licencing is required and the applicant would be obliged to contact Environmental Health Department to find out their requirements for uses involving for example the supply of food direct to the public.

The applicant confirmed that no operational development forms part of the application - the agent states:- 'It is expected that this would be a retail use, however there is no reason why it could not also relate to another employment generating use class, such as offices, indoor leisure and recreation, or a medical /

health service.' It is also considered that there are no uses within the new Class E that would be deemed to be inappropriate for a village centre location, having in mind the intention behind the legislation and the way in which it has been brought into force under a single use class. The intention of which was to provide flexibility and continued employment to traditional shopping areas where retail protection policies would otherwise not work or would slow and inhibit necessary changes.

The nearest residential properties are the flats at upper floor level directly above the commercial unit and along the shopping parade and the properties at the rear along Stocker Road. The Council's Environmental Health Officer has provided comments. Whilst some of the potential uses could be noisy e.g. gym with amplified music any noise nuisance created would be covered by Environmental Health legislation and therefore the condition suggested is not appropriate.

Taking into account the above it is considered that the potential impact on residential amenity could be controlled, in accordance with the NPPF (para 127), and policies D DM1, QE SP1, QE DM1 and QE DM3 of the Arun Local Plan.

WASTE DISPOSAL:

The plans incorporate areas to store and aid the collection of waste (CBL-0920-226-B01).

HIGHWAYS, PARKING & TRANSPORT:

Paragraph 103 of the NPPF states that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. Paragraph 109 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy T SP1 of the Local Plan is compliant with paras 103 and 109 of the NPPF and requires development to reduce the need to travel by car by identifying opportunities to improve access to public transport and give priority to pedestrian and cycle movements and have access to high quality public transport facilities. T DM1 of the Local Plan requires that all new development be located within easy access of established public transport service(s) and existing and pedestrian cycle networks.

The County Highways Authority, WSCC, have not been consulted on this application and no parking provision is proposed. However, in application under reference BR/31/20 for Part change of use of ground floor & formation of a first floor rear extension to create 2 No. self-contained studio flats(same site) case officer in her report stated:

'The development comprises a nil parking provision which would require the use of sustainable means of transport. Owing to the site's proximity to nearby services required for day-to-day living, residents would not need to own a car to access basic facilities, shops, services, public transport or places of work. On this basis a nil parking provision would be appropriate having regard to the local and national planning policy context.'

It is not considered cycle parking is necessary as there is no increase in commercial space.

On the basis of the above factors, the development would accord with Policy T SP1 and T DM1 of the Arun Local Plan and paragraphs 103 and 109 of the National Planning Policy Framework.

SUMMARY:

The proposed change of use would be acceptable, and the proposals would have an acceptable impact, subject to conditions. The application is therefore recommended for approval, 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.

SECTION 106 DETAILS

A Pagham Harbour contribution would not be appropriate; there is no increase in residential units.

CIL DETAILS

This application is in CIL Zone 4 (Zero Rated) as 'other development'.

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:

CBL-0920-226-B101, 17/09/2020, Block/Site Plan

CBL-0920226-E101, 17/09/20, Existing Ground Floor Plan
CBL-0920-226-L101, 17/09/2020, Site Location Plan

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

- 3 The use hereby permitted shall not be carried on unless and until the bin storage area identified on the plan has been made available. The area shall be retained in perpetuity.

Reason: To safeguard the appearance of the property and the amenities of the area in accordance with policy D DM1, QE SP1 and WM DM1 of the Arun District Local Plan.

- 4 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.
- 5 INFORMATIVE: The granting of this planning permission does not in any way indemnify against statutory nuisance action being taken should substantiated complaints within the remit of the Environmental Protection Act 1990 be received. For further information please contact the Environmental Health Department on 01903 737555.
- 6 INFORMATIVE: This permission relates to a change of use only. Any external changes required to support a future use e.g. extraction flue for a restaurant may also require a separate permission.