

Recommendation Report for Planning Permission

REF NO: BR/87/19/PL

LOCATION: Various sites along
Bognor Regis Promenade
Bognor Regis
BN17 5LF

PROPOSAL: Change of use of parts of seafront for temporary food & drink outlets & other seaside uses together with associated temporary/portable structures & equipment for use by businesses associated with those outlets.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Change of use of parts of the seafront for temporary food and drink outlets and other seaside uses together with associated temporary/portable structures and equipment for use by businesses associated with those outlets.
TOPOGRAPHY	The applicant is Arun District Council. Predominantly flat.
BOUNDARY TREATMENT	The promenade is in on a higher level than the road to the north (The Esplanade), with a wall approximately 1.2m high or a very small difference in the level of road. In the vicinity of the Pier there is a marginal difference with railings on the edge of pavement, with the beach running along the southern side.
SITE CHARACTERISTICS	Three sites are proposed within a communal promenade of Bognor Regis, to the east from the Pier. Site A within the north-western corner of the rectangular area in the vicinity of the Pier; 10x10m. Site B a semi-circular area known as the Bullnose approximately 108 sqm. Site C of a rectangular shape of 15x5m near Butlin's.
CHARACTER OF LOCALITY	Built up area, mix of residential and commercial use.
Site history noted	

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Bognor Regis Town Council

No objection subject to compliance with policy 7 of the Bognor Regis Neighbourhood Plan (BRNP).
Facilities should relate to the beach and be focused around 5 specific beach service points/hubs. Should

maintain visual integrity and key views in accordance with the Bognor Regis Characterisation Study 2014. The potential impact on the Bognor Reef SSSI should be considered.

2 letters of objection:

- Site outside Butlins identified as a choke point for vehicles, cyclists, pedestrians and prom train. Temporary unit in 2018 was moved because of this.
- Adequate number of outfits along the Prom - more will affect business sustainability.
- Space needed for Thomas (prom train) quite tight.

COMMENTS ON REPRESENTATIONS RECEIVED:

Bognor Regis Town Council in their policy 7 of the BRNP requires facilities to relate to the beach and be focused around 5 specific beach service points/hubs as indicated on the key priorities map within the Neighbourhood Plan.

The policy statement makes it clear that 'these points are in close proximity to step free access routes between the town and the foreshore. These five service points are the four key access routes as indicated on the key priorities map'; however this map does not contain these points.

The road train (Thomas) would not be impeded by two of the proposed sites (Pier and Bullnose) as they are not on the promenade where the train runs, and there are ample room at the site near Butlin's.

CONSULTATIONS

Engineers (Coastal Protection)
Engineering Services Manager
Engineers (Drainage)
Estates Manager
Environment Agency
Environmental Health
Economic Regeneration
WSCC Strategic Planning
Southern Water Planning

CONSULTATION RESPONSES RECEIVED:

Southern Water: No objection - comment given on proximity of public sewer.

Environment Agency: No objection - structures should be kept in confines of site plans.

Environmental Health: Require detail of operating hours of food and drink outlets and if any generate noise etc.

WSCC Highways: No objection - impact on highway not severe as per paragraph 109 of the NPPF.

Conservation Officer:

Of the three sites proposed, site A, located in close proximity to The Pier (a Listed Building) and the Bognor Regis (The Steyne and Waterloo Square) Conservation Area is of interest. Site A is located almost immediately adjoining Waterloo Square.

The concept of temporary development in this location is considered to be acceptable as it to be placed

on the existing shingle, set to one side of the pier. I note that no information has been provided regarding what any temporary structure would look like, and would request that its appearance should be controlled in order to ensure that it does not harm the neighbouring assets.

On balance, the application is not considered to cause harm to the significance of the heritage assets or their setting. As a consequence, it should be determined in accordance with the relevant policies within the Development Plan, and the contents of section 66/72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) need to be taken into account.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted - no objections to the proposals are raised by the statutory consultees. Operating hours are secured by condition 3; the proposed outlets would be unlikely to generate noise and the closest residential properties are at least 30m away.

POLICY CONTEXT

Designation applicable to site:

Within Built Up Area Boundary

Grade II Listed Building

Class C Road

Permitted Development Restriction relating to lighting and flood lighting

DEVELOPMENT PLAN POLICES

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

DDM1	D DM1 Aspects of form and design quality
DSP1	D SP1 Design
ENVDM1	ENV DM1 Designated Sites of Biodiversity or geographical imp
HERDM1	HER DM1 Listed Buildings
HERDM3	HER DM3 Conservation Areas
QEDM1	QE DM1 Noise Pollution
QEDM2	QE DM2 Light pollution
TOUDM1	TOU DM1 Tourism related development
TOUSP1	TOU SP1 Sustainable tourism and the visitor economy

Bognor Regis Neighbourhood Plan 2015 Policy 1	Delivery of the Vision
Bognor Regis Neighbourhood Plan 2015 Policy 2	Promoting the Seaside Identity
Bognor Regis Neighbourhood Plan 2015 Policy 7	Promotion of tourism and beach service points
Bognor Regis Neighbourhood Plan 2015 Policy 8C	The Pier

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 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.

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.

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).

Bognor Regis has a "made" Neighbourhood Plan and the relevant policies are 1,2, 7 and 8C.

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 the proposed would improve the quality of the visitor experience, would help to raise the overall profile and image of the area promoting the main tourism assets of the waterfront.

Section 16(1) of the Planning (Listed Buildings & Conservation Areas) Act 1990 states:

"In considering whether to grant Listed Building Consent for any works, the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

Where the building is located in a Conservation Area, Section 71(1) of the Act states:

In the exercise, with respect to any buildings or other land in a Conservation Area of any powers (under the Planning Acts), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

The proposal is considered to comply with these criteria in that it would not materially affect the character or the setting of the Grade II Listed Building or the character of the Conservation 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 sites are situated within 'Wider Town Centre Area' of Bognor Regis on the seafront where such uses

are acceptable.

TOURISM:

Policy TOU SP1 of the Arun Local Plan states: 'Proposals for visitor related development will be determined by Arun's capacity to absorb such growth; for Arun this means tourism growth which:

- a. Encourages long -term visitor interest /activity;
- b. Ensures a viable visitor economy;
- c. Provides benefit to local people;
- d. Expands the visitors season; and
- e. Protect and enhance the natural and built environment of Arun

Policy TOU DM1 stresses that proposals which are likely to attract visitors will be supported provided they are in accessible locations.

NEIGHBOURHOOD PLAN:

Policy 1 of the Bognor Regis Neighbourhood Development Plan - Delivery of the vision- requires proposals to identify the significance of any affected heritage asset and assess any harm and benefit. Policy 2- Promoting the seaside identity asks for a restoration and an increase of the seaside identity; Policy 7- Promotion of tourism and beach services around five specific Beach Service Points in close proximity to step free access routes between the town and the foreshore; expected to provide the greatest range of amenities such as seasonal promenade cafes, eateries, retail and information outlets relevant to beach and seafront experience and visitor's needs. This policy also requires that any alterations and additions to the seafront will need to assess potential impact on the Bognor Reef SSSI and take any measures necessary to remove any adverse effects on the reef which lies along the coast starting at the Pier and continuing Westward and is of great geological interest being an extensive area of vegetated shingle, a rare habitat type in Britain; and Policy 8c stresses the importance of the pier as a Grade II listed structure and a Key Priority Site in this Neighbourhood Plan.

HERITAGE:

Policy HER DM1 requires proposals affecting statutory Listed Building should protect, and if possible enhance the setting of the building. Policy HER DM3 stresses the preservation and an enhancement of the character or appearance of the Conservation Area, planning permission will be granted for proposal within or affecting the setting of a Conservation Area, provided it does not harm important views into, out of or within the Conservation Area.

NPPF part 15 requires protection and enhancement of valued landscapes, sites of biodiversity of geological value; and NPPF part16 reminds that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so they can be enjoyed for their contribution to the quality of life of existing and future generations. In para 190 the local planning authority is required to consider the significance of heritage assets (including the setting) that may be affected by the proposal.

NPPF para 193 states that considering the impact of a development on the significance of a designated heritage asset, the great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to significance; and where a development proposal (paragraph 196) will lead to less than substantial harm to the significance of designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that when considering whether to grant permission for development which affects a listed building or its setting, the Local Planning Authority should have special regard to the desirability of preserving the building or its settings or any features of special architectural or historic interest which it possesses.

Site A is close to the Pier (grade II Listed Building), on the boundary of a Conservation Area. The facility would be placed on existing shingle and would provide seasonal promenade cafe/eateries of a moderate scale.

No information has been provided regarding the appearance of the structures. As the control of the land rests with the Council the quality of the units can be appropriately managed. The facility at site A would not cause harm to the significance of the heritage assets. The Conservation Officer hasn't raised an objection. The development would satisfy the requirements of NPPF, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the policies HER DM1 of the Arun Local Plan and Policy 1 of the Bognor Regis Neighbourhood Development Plan.

IMPACT ON SSSI:

All structures would be portable, small scale and would be unlikely attract a considerable amount of visitors over and above existing users. Therefore it is not considered that the proposed development would have an impact on the Bognor Reef SSSI or Pagham Harbour (Zone B) and would comply with policy ENV DM1 of the Arun Local Plan and policies 2 and 7 of the Bognor Regis Neighbourhood Development Plan.

AMENITY/NOISE:

The uses positively influence the commercial and entertainment offer of the seafront and due to their temporary nature and character they would not adversely impact the amenities of the surrounding area and occupiers of nearby properties. They would not produce any unacceptable noise or light pollution. In addition, the nearest premises are at least 30m away. As such it would comply with policies QE DM1, QE DM2 of the Arun Local Plan.

CONCLUSION:

The change of use would bring to the coast services that would promote long term visitor interest and activity and provide benefits to local people complying with policy TOU SP1 of the Arun Local Plan.

The sites have been chosen carefully within accessible locations, within the 5 specific beach service points (the immediate area around the pier, the Bullnose and near Butlin's) in close proximity to step free access according to the requirements of policy TOU DM1 of the Arun Local Plan and Policy 7 of the Bognor Regis Neighbourhood Plan.

The temporary change of use of sites for food & drink outlets & other seaside uses together with associated temporary/portable structures & equipment for use by businesses associated with those outlets is considered to comply with relevant policies of the Arun Local Plan and the Bognor Regis Neighbourhood Development Plan in terms of heritage/amenities and the impact on the SSSI.

The proposal 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.

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:

Site Location Plan: 799/01
Block Plans, Sheet 1 of 2: 799/02
Block Plans, Sheet 2 of 2: 799/03

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 No operation in connection with the use of the areas outlined in red shown on plan 799/01 for temporary food & drink outlets & other uses, shall take place before 7.30 or after 23.00 unless otherwise agreed in writing with the Local Planning Authority.

Reason: To safeguard the amenities of neighbouring properties in accordance with Arun Local Plan policies D DM1, QE DM1, QE DM2.

- 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.