

Recommendation Report for Planning Permission

REF NO: BR/9/18/PL

LOCATION: Oceans
13 High Street
Bognor Regis
PO21 1RJ

PROPOSAL: Change of use of pavement to front area to accommodate 3 No. removable tables with chairs & cafe barriers. This application may affect the setting of a listed building.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

This application relates to land within the pedestrianised shopping precinct in the centre of Bognor Regis. The land forms a part of the public highway. It is proposed to locate a small seating area serving the bar called Oceans in the application, but currently titled Punch and Judy on its fascia sign, at 13 High Street, Bognor Regis. This facility would be a small area to accommodate seating with 3 circular tables with 2 chairs each, in front of the bi fold doors which form the front elevation of the bar which open onto the pavement.

The boundary of the area would be formed by locating temporary stainless steel portable barriers of approximately 88cm in height.

The portable barriers and tables and chairs would be readily movable and removed whilst the business was closed.

SITE AREA

The seating area encloses an area of approximately 4.5m by 1.5m.

TOPOGRAPHY

The site of the seating area and immediate surrounds is flat.

TREES

None affected by the proposed development.

BOUNDARY TREATMENT

N/a

SITE CHARACTERISTICS

The site is currently pavement within a newly formed pedestrianised shopping precinct and is surfaced in paviers. A line of stainless steel posts is set approx. 4 metres away from the shopfront at approx.. 4 metre intervals along the pavement edge. The roadway is now only used by buses and emergency vehicles.

CHARACTER OF LOCALITY

The general character of the area is of a commercial and retail pedestrianized zone. There are other cafe/pub type uses nearby which have enclosed seating areas where they front the precinct and which enclose a small part of the pavement of the precinct. The William Hardwicke pub opposite the

applicant's premises has a large outdoor sitting area to the front located within its own curtilage.

RELEVANT SITE HISTORY

BR/193/07/	Change front window of premises for bi-folding doors with safety barrier	ApproveConditionally 07-08-07
BR/141/04/	New ground floor shopfront & internal alterations.	ApproveConditionally 28-05-04

REPRESENTATIONS**REPRESENTATIONS RECEIVED:**

Bognor Regis Town Council
No objection.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

WSCC Strategic Planning
Conservation Officer
Economic Regeneration
WSCC Strategic Planning

CONSULTATION RESPONSES RECEIVED:

WSCC - I have heard from the Arun Area Engineer who has advised that the tables and chairs placement, as shown in the photo would not raise a concern. The LHA are satisfied that sufficient footway width would remain to not impact upon pedestrians and therefore no highway safety concern is raised to the proposals. The A-board may be unlicensed and would not be covered by the tables and chairs licence and should not legally be in place on the highway. From a pedestrian safety point of view this should be removed as it further reduces the available footway width. No highway safety concerns to resist the application.

No objection subject to an informative.

Economic Regeneration -- support

Conservation Officer - No comment.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designation applicable to site:

ADOPTED LOC PLN

CLASS B ROAD

NO PUBLIC SEWER

PD RESTRICTION

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

GEN2 Built-up Area Boundary

GEN7 The Form of New Development

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

SD SP2 Built-Up Area Boundary

D DM1 Aspects of Form and Design Quality

D SP1 Design

HER DM1 Listed Buildings

HER SP1 The Historic Environment

RET DM1 Retail Development

[Bognor Regis Neighbourhood Plan 2015 Policy 2](#) Promoting the Seaside Identity

Bognor Regis Neighbourhood Plan 2015 Policy 5 Preferred Retail Uses in the primary retail area

PLANNING POLICY GUIDANCE:

NPPG National Planning Practice Guidance

NPPF National Planning Policy Framework

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 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. The examination was completed in September 2017. The Main Modifications to the Arun Local Plan (2011-2031) were out for Public Consultation over a six week period starting on Friday 12 January 2018 until 5pm on Friday 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.

Policies 2 and 5 of the Bognor Regis Neighbourhood Plan are relevant to this application.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

PLANNING

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 located within the built-up area where the principle of development is acceptable, subject to accordance with relevant planning policies. In this instance, the main criteria against which the application will be assessed is contained within policy GEN7 in the Adopted Local Plan 2003 and Policies 2 and 5 of the Bognor Regis Neighbourhood Plan which seeks to prevent development that would have an adverse impact in terms of design, amenity, highway safety, primary retail uses and the seaside identity of the town. Policy HER DM1, in the Emerging Local Plan 2011-2031 is also a consideration with respect to the development proposal's effect the setting of a on a nearby listed building.

LAND USE

The proposal does not involve a change of use from an A4 Bar use and therefore accords with Policy 5 of the Bognor Regis Neighbourhood Plan.

DESIGN, VISUAL AMENITY AND IMPACT ON THE SETTING OF A LISTED BUILDING

In terms of impact on visual amenity, the limited scale of the seating area is such that there would be little impact on visual amenity in the vicinity given that an outdoor seating areas would be reasonably consistent with other cafes, bars and pubs in the locality. It is not considered that there would be visual detriment. The seating, tables and barriers would be uniform in modern design which would match the existing bar frontage which includes UPVC bi fold doors, and a stainless steel post and perspex sheet ground floor Juliet balcony. The proposal would therefore not give rise to design issues.

Policies 2 of the Bognor Regis Neighbourhood Plan support alterations to commercial premises in the town centre that have an acceptable affect the setting of designated heritage assets and contribute to the seaside identity of the town. The design of the seats/tables and barriers providing outdoor seating is in keeping with its location on a pedestrianized avenue and would add to the seaside town identity and tourism without adversely affecting the setting of heritage asset opposite (William Hardwickes Public House). The Conservation Officer had no comment to make on the proposal with respect to the impact on the nearby listed building.

It is therefore considered that the seating area is acceptable in design and visual amenity terms and complies with policies GEN7 (ii), of the Adopted Arun District Local Plan, Policy 2 of the Bognor Regis Neighbourhood Plan and Policies D DM1 and HER DM1 in the Emerging Local Plan 2011-2031.

AMENITY

The proposed outdoor seating is not considered to have any adverse impacts on neighbouring uses as it is in a town centre area where outdoor seating at cafes, bars and pubs already occurs at neighbouring premises and the proposal would be unlikely to increase noise levels significantly above the existing level. The proposal is considered to accord with policy GEN7 (iv) and (v) with respect to the acceptable impact on the amenity of the new use and neighbouring land uses.

VITALITY & VIABILITY

The National Planning Policy Framework (NPPF) seeks to ensure the vitality of town centres and local planning authorities should support existing business sectors. LPAs should be positive, promote competitive town centre environments.

The proposal would contribute to the viability of the existing business and to the vitality of the town centre. it is therefore consistent with the approach encouraged by the NPPF.

HIGHWAYS

WSCC Highways has made no objection to the proposal as it provides a minimum of 2 metres between the barrier and street furniture in the vicinity of the proposed barrier. The proposal is not considered to result in an unacceptable reduction/narrowing of the public highway in this location.

For these reasons, the proposal is considered to be acceptable with respect to the impact on highway safety, allowing for the safe movement of pedestrians and vehicles, and is considered to be in accordance with policy GEN7(vii) of the Arun District Local Plan.

It is therefore recommended that the application be approved subject to the following 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
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;

Dwg.no. 17.41.El.G103 Site Block and Location Plan dated Jan 2018

Dwg.no. 17.41.El.G102 Rev A. Proposed Pavement Furniture Plan dated June 2017

Email dated 14 March 2018 12:48 confirming height of café barriers at 881mm.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy Policy GEN 7 of the Arun District Local Plan and Policies 2 and 5 of the Bognor Regis Neighbourhood Plan.

- 3 **INFORMATIVE:**

The items placed within the public highway are not to be permanently fixed and are to be removable. This is to permit the maintenance of the public highway and to ensure that a permanent obstruction does not result. If Planning Consent is approved, a separate Licence agreement will be required to be entered into with the Highway Authority, WSCC. It will be a requirement of the Highway Licence that tables and chairs must be removed from the highway each and every night and only placed out at times stated within the Licence agreement. The applicant is advised to contact the Highway Licensing team (01243 642105) in order to obtain

the required licence.

- 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.