

Recommendation Report for Removal of a Planning Obligation

**REF NO:** CM/30/18/PO

**LOCATION:** Bairds Farm Shop  
Crookthorne Lane  
Climping  
BN17 5SN

**PROPOSAL:** Application to modify a Planning Obligation dated 16/01/2006 under planning application CM/40/02/ to allow for additional use as a pet shop

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| <b>SITE AND SURROUNDINGS</b> |
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|-----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>DESCRIPTION OF APPLICATION</b> | The application seeks to vary the retail sales restriction which is the subject of a Section 52 Planning Obligation relating to CM/40/02 which restricted goods sold to Items necessary for the running of a household, Bakery, Butchery and Greengrocery. The proposal would add goods associated with a retail pet shop including live tropical, marine and coldwater fish for pets, foodstuffs for live tropical marine and coldwater fish and accessories for the keeping of live tropical, marine and coldwater fish as pets and other pets, foodstuffs for pets; and accessories for the keeping of other pets. |
| <b>BOUNDARY TREATMENT</b>         | Ranch style fencing to site frontage                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>SITE CHARACTERISTICS</b>       | The site comprises an established farm shop with car parking adjacent to the road frontage. It is single storey with clad elevations. The area immediately to the east of the car park contains a raised bed planted with shrubs and enclosed by sleepers. The car park area is hard surfaced with spaces clearly defined and marked out.                                                                                                                                                                                                                                                                             |
| <b>CHARACTER OF LOCALITY</b>      | The area is rural in character with sporadic linear development to the south. Land to the east and west of the site is predominantly undeveloped agricultural land                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

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| <b>REPRESENTATIONS</b> |
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**REPRESENTATIONS RECEIVED:**

Climping Parish Council

No Objection provided the use as a pet shop does not give a generic A1 retail use.

**COMMENTS ON REPRESENTATIONS RECEIVED:**

This variation to the Obligation ensures that the goods sold are restricted and an unfettered A1 use cannot be undertaken without discharge of this Obligation.

**CONSULTATION RESPONSES RECEIVED:**

None

**COMMENTS ON CONSULTATION RESPONSES:**

None

**POLICY CONTEXT**

Designation applicable to site:

Outside built up area boundary

Class A road

Within Settlement Gap

**DEVELOPMENT PLAN POLICES**

|        |                                                 |
|--------|-------------------------------------------------|
| CSP1   | C SP1 Countryside                               |
| SDSP2  | SD SP2 Built-up Area Boundary                   |
| SDSP3  | SD SP3 Gaps Between Settlements                 |
| EMPDM1 | EMP DM1 Employment Land: Development Management |

[Clymping Neighbourhood Plan 2015 Policy CPN14](#) Traffic and the Environment

Clymping Neighbourhood Plan 2015 Policy CPN4 Protection of existing commercial premises or land

**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.

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.

The relevant policies of the Clymping Neighbourhood Plan have been taken into account in the determination of the application.

## 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 character of the area or residential amenity.

## 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

This application is being considered alongside planning application CM/27/18/PL which seeks to amend the use of the premises to include use as a pet shop. The officer report for application CM/27/18/PL sets out the justification and reasoning for the decision. This application seeks to remove the same restriction which was controlled by a planning obligation.

Therefore, in light of the above it is recommended that the proposed variation to the obligation to include additional pet shop retail sales, in accordance with planning application CM27/18/PL, is approved under delegated authority.

## 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