

Recommendation Report for**REF NO:** EP/133/17/PD**LOCATION:** 126 Sea Road
East Preston**PROPOSAL:** Application for Prior Notification under Class C for change of use from shop (A1) to Cafe/Restaurant (A3)**SITE AND SURROUNDINGS****DESCRIPTION OF APPLICATION**

This proposal relates to the ground floor only and is for change of use under Schedule 2, Part 3, Class C of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) from Class A1 (retail) to a restaurant Class A3. The proposal does not involve any external ducting. Bin storage would take place to the rear in the same position as is currently the case.

SITE AREA

118 sq m

RESIDENTIAL DEVELOPMENT DENSITY (NET) N/A**TOPOGRAPHY**

Predominantly flat

TREES

None affected by the proposed development.

BOUNDARY TREATMENT

Site frontage open.

SITE CHARACTERISTICS

The premises is a mid terrace property with residential use at first floor. The shop front is curved and has an inset / recessed door. The area in front is hard surfaced.

CHARACTER OF LOCALITY

Predominantly residential. The premises is located in a retail parade close to the seafront.

RELEVANT SITE HISTORY

EP/44/99/	Change of use from retail to office and create new rear access to self-contained first floor flat	ApproveConditionally 28-06-1999
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REPRESENTATIONS**Representations received:**

No Objection

Comments on Representations received:

None

CONSULTATIONS

Environmental Health

Economic Regeneration

WSCC Strategic Planning

Consultations responses received:

County Highways - Under the current General Permitted Development Order (GPDO), it is permitted development to change use from Shop (A1) use to Restaurant (A3) subject first to prior approval being granted. As part of the prior approval process there are a number of matters to be considered. This includes matters relating to highways and transport. However the GPDO is quite clear as to what highway matters can be considered, namely whether the proposal is likely to result in a material increase or a material change in the character of traffic in the vicinity of the site.

The proposal is not anticipated to result in a material increase or change in the character of traffic. Consequently, no highway concerns would be raised. In principle, the current GPDO gives limited ability to consider wider highway and transport impacts beyond those set out.

Taking into account the existing permitted usage in terms of highway safety and level of activity of the site, it is unlikely that this proposal to change to A3 would have an adverse impact on the local highway network. No highway capacity concerns are raised to this application and the prior approval is therefore considered acceptable in highway terms.

Economic Development - no comment on this application

Environmental Health - It is proposed to change this premises to A3, café/restaurant use. The suggestion of a recirculating fan to condense fumes/cooking odours to be disposed of via the drain is unacceptable to this Department. Should the Planning Department be minded to allow this application, then detail of a proper system of mechanical ventilation which incorporates suitable odour abatement must be provided. This to be accompanied by an Acoustic Report to predict noise levels from any such apparatus at the nearest sensitive location, ie overhead residential units and mitigation required to prevent detriment to the amenity. Such a mechanical means of means of ventilation, odour abatement and noise mitigation to be agreed by the Environmental Health Department before development goes ahead.

Reason : In order to safeguard the amenity .

Please add the following Planning Condition:

Drainage: 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

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

Hours of Operation:

No machinery shall be operated, no process carried out and no deliveries taken at, or

despatched from the site outside the following times: 08:00hours to 18:00 hours Monday to Wednesday and 08:00 to 22.30 Thursday to Sunday inclusive.

Informative:

The space allocated for kitchen use would appear to be small, further restricted by an overhead staircase here. I have concerns for how a double bowl sink and wash hand basin together with adequate storage and preparation surfaces will be provided. The intervening space to the WC will not be acceptable as a storage space for items used in the kitchen. A sink and wash hand basin will be necessary to the servery dependant on the type of food operations carried out here.

The premises may 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 Environmental Health for further information.

Comments on Consultation responses:

Comments noted

DEVELOPMENT PLAN POLICIES

[Arun District Local Plan 2003:](#)

PLANNING POLICY GUIDANCE

POLICY COMMENTARY

The application is determined under the provisions of Class C of the Town and Country Planning (General Permitted Development) Order 2016 in respect of a development consisting of a change of use of a building to a use falling within Class C3 (restaurant and cafes) of the Schedule to the Use Classes Order from a use falling within Class A1 (Retail) of that Schedule.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

This application falls to be determined under the provisions of Class C of the Town and Country Planning (General Permitted Development) Order 2016 in respect of a development consisting of a change of use of a building and any land within its curtilage to a use falling within Class A3 (restaurant) of the Schedule to the Use Classes Order from a use falling within Class A2 (Financial and Professional Services) of that schedule.

The principle of the development is not in dispute. Class C allows for the change of use (and limited building operations) provided that:

- (a) the cumulative floor space of the existing building changing under Class C does not exceed 150 sq metres;
- (b) the development (together with any previous development under Class C) would result in more than 150 sq m of floor area in the building having changed use under Class C.
- (c) the land or the site on which the building is located is or forms part of -
 - i) a site of special scientific interest
 - ii) a safety hazard area; or
 - iii) a military explosives storage area
- (d) the site is, or contains, a scheduled monument, or
- (e) the land or building is a listed building or is within the curtilage of a listed building.

The above criteria are considered to have been met. The floor area is approximately 64 sqm

Class C (paragraph 1) states that an application must be made to determine whether or not the prior approval of the Council will be required in respect of:

- (a) noise impacts of the development
- (b) odour impacts of the development
- (c) impacts of storage and handling of waste in relation to the development
- (d) impacts of hours of opening of the development
- (e) transport and highways impacts of the development,
- (f) whether it is undesirable for the building to change to a use falling within Class A3 (restaurant) because of the impact of the change of use- (i) on adequate provision of financial and professional services or (ii) the sustainability of that shopping area.
- (g) the siting, design or external appearance of the facilities to be provided for ventilation/extraction and storage of rubbish

The Order also states that the provisions of Paragraph W shall apply in relation to any application and part (10) of paragraph W includes the following:

"(10) The local planning authority must, when determining an application

(a) take into account any representations made to them as a result of any consultation under subparagraphs (5) or (6) and any notice given under sub-paragraph (8);

(b) have regard to the National Planning Policy Framework issued by the Department for Communities and Local Government in March 2012(a), so far as relevant to the subject matter of the prior approval, as if the application were a planning application; and

(c) in relation to the contamination risks on the site

(i) determine whether, as a result of the proposed change of use, taking into account any proposed mitigation, the site will be contaminated land as described in Part 2A of the Environmental Protection Act 1990(b), and in doing so have regard to the Contaminated Land Statutory Guidance issued by the Secretary of State for the Environment, Food and Rural Affairs in April 2012(c), and

(ii) if they determine that the site will be contaminated land, refuse to give prior approval."

This allows the local planning authority to have regard to any representations received and the NPPF but only in relation to the issues stated above. Advice has been received from the DCLG which confirms that it is not possible to refuse prior approval on the basis of an issue/impact not listed above. The Local Planning Authority has 56 days to provide its comments to the applicant's agent or it is deemed that they have no objection.

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

TRANSPORT AND HIGHWAYS

The use of the property as a restaurant is not considered to generate a significant additional level of parking pressure beyond that of the existing A1 use for which the property already has permission. As such it is considered to be acceptable in highway and transport terms.

IMPACTS OF NOISE, ODOUR, STORAGE AND OPENING HOURS

Environmental Health have commented. However storage would be controlled by Environmental Health if problems arise in the future. Opening and delivery times are proposed to be controlled by condition given the close proximity of residential units.

The potential increase in opening hours of the premises beyond those normally associated with a retail use is considered reasonable and it is necessary to restrict the hours of opening in the interest of residential amenity. It is noted that the adjacent premises is a restaurant which opens in the evenings and there is a pub to the south, Chinese to the north and the Clockhouse opposite also opens in the evenings.

SUITABILITY OF CHANGE OF USE

The site is situated within an existing retail parade which comprises retail and office uses at ground floor and residential/commercial use above. The shopping area in this location provides key services to local residents and tourists. There are many retail business units in the vicinity of the application site and in the nearby shopping area of East Preston village centre such that the loss of this unit would not have an undesirable impact.

NPPF

The proposal for the change of use is considered to comply with the National Planning Policy Framework so far as relevant to the subject matter of prior approval

DESIGN AND VISUAL AMENITY

No external changes are included in the application. Therefore, no objections are raised in relation to the design of the proposal.

CONTAMINATION

There are no issues of land contamination relevant to this prior notification.

SUMMARY

It is therefore recommended that no objection is raised to the proposal subject to requested 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

NO OBJECTION SUBJECT TO CONDITIONS

- 1 No machinery shall be operated, no process carried out and no deliveries taken at, or despatched from the site outside the following times 08:00 and 18:00 hours Sunday to Wednesday and 08:00 to 22:30 hours on Thursday to Saturday.

Reason: In the interests of residential amenity in accordance with policy GEN7 of Arun District Local Plan.

- 2 Hours of operation of this business to be restricted to 8:00 to 18:00 hours on Monday to Wednesday Sunday, Public or Bank Holiday and 8:00 to 23.00 hours on any Thursday, Friday, or Saturday unless otherwise specifically agreed by the Local Planning Authority.

Reason: In order to prevent detriment to amenity in accordance with policy GEN7 of Arun District Local Plan.

- 3 Prior to the use commencing a proper system of mechanical ventilation which incorporates suitable odour abatement must be provided in accordance with details to be submitted to and approved by the Local Planning Authority. These details must be accompanied by an Acoustic Report to predict noise levels from any such apparatus at the nearest sensitive location, ie overhead residential units and mitigation required to prevent detriment to the amenity. The development shall proceed in accordance with the details so approved.

Reason : In order to safeguard the amenity in accordance with policies GEN7, GEN32 and GEN34 of Arun District Local Plan.

- 4 Prior to the use commencing 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 the 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.

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

- 5 For the avoidance of doubt the approved details are drawing 1135.01 the existing and proposed plans, site location plan and site block plan.
- 6 **INFORMATIVE:** Sanitary Accommodation. Separate staff sanitary accommodation is preferred. The current provision of one WC and wash hand basin, is acceptable for up to 20 clients (male and female)
- 7 **INFORMATIVE:** Registration of Food Premises: The premises may 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 Environmental Health for further information.
- 8 **INFORMATIVE:** The space allocated for kitchen use would appear to be small, further restricted by an overhead staircase here. I have concerns for how a double bowl sink and wash hand basin together with adequate storage and preparation surfaces will be provided. The intervening space to the WC will not be acceptable as a storage space for items used in the kitchen. A sink and wash hand basin will be necessary to the servery dependant on the type of food operations carried out here.