

Recommendation Report for Planning Permission

REF NO: EP/60/20/PL

LOCATION: 2 The Street
East Preston
BN16 1JJ

PROPOSAL: Convert part of current car park area to the rear & side of restaurant into an outside seating area with preparation space for woodfired pizza oven & bbq area.
This application may affect the setting of a listed building.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
SITE AREA	320 sq.m.
TOPOGRAPHY	Predominantly flat.
BOUNDARY TREATMENT	2 metre close boarded fence.
SITE CHARACTERISTICS	A detached single storey restaurant building on a small plot of land which is currently used for 4 parking spaces and a service area for use by the restaurant.
CHARACTER OF LOCALITY	Village centre with some residential properties in the area.

REPRESENTATIONS

East Preston Parish Council - No objection.

1 neighbour objection received to say that with the best will in the world outside dining can not be conducted quietly, I have experienced this myself.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted.

CONSULTATIONS**CONSULTATION RESPONSES RECEIVED:**

ADC Environmental Health - Recommend refusal on grounds of odours and noise affecting nearby residential properties.

Conservation Officer - No objection.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designation applicable to site:
WITHIN BUILT UP AREA BOUNDARY

DEVELOPMENT PLAN POLICIES

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

DDM1	D DM1 Aspects of form and design quality
DSP1	D SP1 Design
TSP1	T SP1 Transport and Development
HERDM1	HER DM1 Listed Buildings
QEDM1	QE DM1 Noise Pollution
QEDM3	QE DM3 Air Pollution

East Preston Neighbourhood Plan 2014 Policy 1	Housing - General Principles
East Preston Neighbourhood Plan 2014 Policy 4	Design in Character Area Three

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.

Polices 1 and 4 of the Neighbourhood Plan are considered relevant to this 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 special circumstances at this time apply with the Covid 19 pandemic and the scheme can be monitored over a period of time with regard to objections of noise and pollution. The proposal will have the benefit of providing social distancing at the restaurant giving it a chance to stay open as a viable concern and therefore remain as an established and valuable village facility.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

The principle of the development is acceptable within the built up area boundary subject to policies D DM1 and HER DM1, of the Arun Local Plan.

Policy D DM1 sets out 13 design aspects of which applications should be assessed against. These include: Character, Appearance, Impact, Innovation, Adaptability, Crime Prevention, Trees, Public realm, Layout, Public Art, Density and Scale.

Policy D SP1 - Design requires that development proposals should reflect the characteristics of the local area by amongst other things in terms of its character and design.

Policy HER DM1 requires that regard be had to development that could potentially affect the setting on a nearby Listed Building.

Policies QE DM1 and QE DM3 of the Arun Local Plan seek to control noise and odour pollution from proposed development to acceptable levels

Policy 1 of the East Preston Neighbourhood Development Plan sets out general principles for development within the Parish. Part (i) relates to the scale, density, massing, height, landscape design, layout and materials of development proposals, and how proposals must reflect and enhance the established character of the area.

Policy 4 of the East Preston Neighbourhood Development Plan sets out the criteria for development within Character Area Three. This supports proposals which would sustain and enhance the historic character of the area and employ building materials that harmonise with those used in existing buildings.

NPPF para 92 c) & d) states that to provide social recreational and cultural facilities and services planning decisions should guard against the unnecessary loss of valued facilities and services and ensure that established shops, facilities and services are able to develop and modernise.

There is a need for this type of development due to the COVID 19 outbreak and the need for social distancing between restaurant tables. This has had the effect of impacting the ability of restaurants to remain viable and open. This proposal amounts to special circumstances as it is designed to provide the restaurant with an additional revenue stream.

VISUAL AND RESIDENTIAL AMENITY

The appearance of the area would not be significantly affected as the change of use would not be prominently sited being below the level of the boundary fence, tables chairs, pizza oven etc. and is associated with a complimentary established restaurant use on the site.

The primary impact is the potential for outdoor noise and odours caused by the pizza oven and the use of outdoor space by customers. There are residential properties which abut the site at the rear and the Environmental Health Officer has expressed a concern that the impact would be unacceptable in terms of noise and odour pollution on these properties and has recommended a refusal of the application.

However, this submission is the first at the site and there is no evidence to suggest that noise and odour has been/will be a problem. It is considered that with an appropriate closing time and a temporary permission the site could be monitored to assess whether a problem is ensuing and therefore an opportunity to refuse permission when it needs renewing. This amounts to special circumstances to allow a 6 month permission to be granted in this case so that the use of the site can be monitored before the Summer months of 2021.

PARKING

No additional parking is proposed for this development. However this is not considered to be an objection that would warrant a reason for refusal given that this is likely to be an evening use when more on street parking would be available. Also the area that this use would cater for is likely to be local where people would not use a car to frequent.

The proposal is therefore considered to accord with policy T SP1 of the Arun Local Plan.

HERITAGE

Para. 189 of the National Planning Policy Framework (NPPF) requires that a heritage statement be supplied in the event of an application affecting heritage assets which the applicants have not done. The application falls to be assessed against para 130 of the NPPF. The scheme is considered to minimise conflict between the Listed Buildings and the site as the development would be hidden behind a fence to the rear of the road frontages of the site.

The new development has been assessed by the Conservation Officer who has concluded that the development would not cause harm to the significance of the setting of the heritage asset. Under para 197 of the NPPF it is considered on balance that the scheme would not cause any harm or loss to Listed Buildings.

The development is considered to protect the setting of the listed building in accordance with policy HER DM1 of the Arun Local Plan.

CONCLUSION

Due to the special circumstances relating to COVID 19 and the need for social distancing at restaurants it is recommended that the application be approved on a temporary and time limited basis in accordance with 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), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal 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 use of the land hereby permitted shall be discontinued permanently and the land restored to its former condition, or to a condition to be agreed in writing by the Local Planning Authority, on or before the expiration of the period ending on 12 February 2021.

Reasons: The Local Planning Authority would not normally grant permission for such a development in this location but under the circumstances prevailing it is considered reasonable to make an exception in this instance and to allow the development for a limited period.

- 2 The development hereby approved shall be carried out in accordance with the following approved plan:

Proposed Plans and Site Block Plan dwg.no. 1262.01 dated 17/06/2020

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 outdoor tables and pizza oven/bbq shall only be used between the hours of 12 noon and 9.00pm Tuesday to Saturday and 12 noon to 5pm on Sunday.

Reason: To protect the amenities of nearby residential properties in accordance with policy D DM1 of the Arun 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.