

Recommendation Report for Planning Permission**REF NO:** EP/90/13/**LOCATION:** 45 Sea Road
East Preston**PROPOSAL:** Application to vary condition 3 (hours) following a grant of planning permission EP/59/13/**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION	As above. The revised opening times being applied for are as follows... Monday - Saturday 09:00 - 18:00 (current approved hours are 09:30 - 18:00 Monday - Friday and 10:00 - 17:30 Saturday) Sundays and Bank Holidays 10:00 - 17:15 (current approved hours are 10:00 - 16:00)
SITE AREA	N/A
TOPOGRAPHY	Predominantly flat.
TREES	N/A
BOUNDARY TREATMENT	The shop frontage faces directly onto the pavement.
SITE CHARACTERISTICS	The site is occupied by a two-storey terraced building which forms the middle unit within a parade of three ground floor shops. The shop unit is currently vacant. There is residential accommodation above the shop.
CHARACTER OF LOCALITY	The site is located in a central village location towards the southern edge the primary shopping area of East Preston. The majority of nearby shops are concentrated to the north. To the south and west the land use is predominantly residential.

RELEVANT SITE HISTORY

EP/21/03/	Change of shop use from A1 (Shops) to A2 (Financial & Professional Services).	ApproveConditionally 16-04-2003
EP/69/03/	Change of use from retail to tanning salon	ApproveConditionally 22-08-2003

EP/59/13/ Change of use from A1(shops) to daytime tea room ApproveConditionally
04-07-2013

REPRESENTATIONS

Representations received:

East Preston Parish Council

No objection.

Comments on Representations received:

Noted.

CONSULTATIONS

Environmental Health

WSCC Strategic Planning

Consultations responses received:

COUNTY HIGHWAYS: The existing hours of opening are duly noted. The extended hours will evidently give rise to the site generating vehicular traffic over an extended period. However, the number of movements would not be anticipated to be particularly significant and would not be expected to exacerbate any existing issues, nor warrant an objection on the basis of safety or capacity. Whilst the Planning Authority will no doubt wish to consider matters of amenity for local residents, no highway concerns would be raised.

ENVIRONMENTAL HEALTH: None.

Comments on Consultation responses:

Noted. Environmental Health provided comments on the initial application for the use of the unit as a tea room and did not raise any concern relating to opening hours.

POLICY CONTEXT

Within Built-Up Area

Class C Road

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:

[GEN32](#)
[GEN7](#)

Noise Pollution

The Form of New Development

PLANNING POLICY GUIDANCE

NPPF

National Planning Policy Framework

SUPPLEMENTARY POLICY GUIDANCE

EPDS

East Preston Village Design Statement

POLICY COMMENTARY

The above policies combine to describe the criteria against which the application will be assessed particularly with regard to:

It should be noted that the Arun District Local Plan was adopted in 2003 .

In accordance with paragraphs 214 of the NPPF, the South East Plan is afforded full weight as part of the development plan. Footnote 41 (page 49) states the Governments clear policy intention to revoke regional strategies.

Paragraph 214 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight. The weight afforded to the policies with Local Plan policies can be assessed according to their level of consistency of the various policies with the National Planning Policy Framework. It should be noted that the NPPF states that weight is given to individual policies and not to the plan as a whole.

NPPF Paragraph 216 confirms that weight can be given to policies in emerging plans following publication. The Council published the Draft Arun Local Plan in July 2012 and this is a material consideration in the determination of this planning application. A pre-submission Plan has yet to be endorsed and published. Following publication of a pre-submission draft, there is required to be a formal public consultation, resolution of objections, examination and formal adoption. At this time, the emerging Local Plan is afforded very limited weight in terms of the decision making process

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 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

The conversion of the premises to an A3 use was approved under application EP/59/13 and is not an issue. This proposal relates to an extension of the hours of operation beyond those previously permitted under this earlier approval.

The proposed increase in hours of operation would not result in any materially adverse effects on the residential amenities of adjoining properties. The level of activity associated with the use would be comparable with other commercial uses in the vicinity. The applicant is requesting an increase in opening hours of one hour Monday to Saturday (half an hour at the beginning of the day to start at 9am and half an hour at the end of the day, finishing at 6pm) and Sunday and bank holiday opening extended by 1 and a quarter hours at the end of the day to 5.15pm. These hours do not extend into the evening and do reflect those generally associated with tea shops.

The increase in hours of operation are considered acceptable. The application 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 for 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 it has been determined that its approval would result in a neutral impact 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).

As such, no specific mitigation measures will be required.

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 approved floor plan which accompanied the original application (EP/59/13/).

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with GEN7 of the Arun District Local Plan.

- 3 The premises shall not be open for trade or business except between the hours of:

09:00 to 18:00 daily Monday to Saturday,
10:00 to 17:15 Sundays and Bank Holidays.

Reason: To safeguard the amenities of neighbouring properties in accordance with policy GEN7 of the Arun District Local Plan.

- 4 Any future variation from the submitted menu sample will first need the prior approval of

report

the Council before it is included in the menu and/or served.

Reason: To enable the Local Planning Authority to maintain control in the interests of the amenities in accordance with Arun District Local Plan policies GEN7 and GEN34.

- 5 The building shall be used as a tea room only and for no other purpose (including any other purpose in Class A3 of the Schedule to the Town & Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any other Statutory Instrument revoking and re-enacting that Order).

Reason: To enable the Local Planning Authority to maintain control in the interests of the amenities in accordance with Arun District Local Plan policies GEN7.

- 6 INFORMATIVE: The applicant is advised that the change of use to A3 has only been permitted in view of the limited types of foods being cooked or reheated as per the submitted menu. It should be noted that if there are any changes to the nature of the food being produced a ventilation and extraction system may be required and this will require the submission of a planning application.
- 7 INFORMATIVE: This permission conveys consent under planning legislation only. However, acceptable pedestrian access into the tea room would be controlled by the associated building regulation application. The applicant is advised that as part of that application they are expected to submit an access statement showing how access into the tea room is proposed.
- 8 INFORMATIVE: Statement pursuant to Article 31 of the Town and Country Planning (Development Management Procedure)(England) (Amendment No. 2) Order 2012. 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.