

Asda/Ferring

8th September 2020



Planning Services
Arun District Council, Civic Centre
Littlehampton
West Sussex
BN17 5LF

Dear Sir/Madam

Asda Stores Limited, Littlehampton Road, Ferring BN12 6PN

We are instructed by Asda Stores Limited to apply for a Certificate of Lawfulness, under Section 192 of the Town and Country Planning Act 1990 (as amended), to confirm that the provision of an 'in store' café facility at the Asda store in Ferring is lawful.

The application is supported by the following documents:

- Completed application forms
- Drawing L(00)004 Location Plan
- Drawing L(00)005 Block Plan

The application has been submitted via the Planning Portal and has the reference number PP-09009982. The application fee of £231 has also been paid via the Planning Portal.

Planning history

The store was originally opened under planning permission FG/33/10/ approved in 2010. It has since been subject to other minor planning permissions. Our review of the planning history confirms that there are no restrictions on any of the planning permissions that would prevent the operation of a café facility.

The proposed café

There is an existing café within the Asda store which is well established and meets the requirements of customers visiting the store. It serves a variety of food and drink throughout the day. Asda are intending to refit the café and will provide new seating layouts and enhanced catering.

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The attached drawings show the proposed café area. The store has a gross internal area of 11427sqm and the café will be 227sqm. The café will not have independent access; it will only be accessible through the main store and will operate within the hours of the store.

The proposal is limited to internal works; any new external signage would be subject to separate applications.

Lawful Nature of the Proposed Use

An ancillary use does not generate a material change of use and therefore does not constitute development as defined by Section 55A of the Act. This has been established through statute and case law. The Local Planning Authority will be aware of the Court of Appeal case Harrods Ltd v Secretary of State for the Environment, Transport and the Regions 7 March 2002. That case concluded that the relevant test to judging whether a use or operation is ancillary, is whether it is 'ordinarily incidental' to the primary use or operation.

An 'in store' café is an ordinarily incidental customer facility found in most large superstores and is an integral part of the offer of most superstores operated by the leading grocers in the UK. Before the Harrods case established the binding authority, the 'ancillary' nature of a proposed use was established by having regard to its physical characteristics (e.g. scale and accessibility) and functional link.

As set out above the cafe will only be accessible through the Asda store and it will not operate outside the store opening hours. The store measures 11427sqm (GIA) and the proposed café will cover an area approximately 227sqm. This represents just 2% of the total area.

Given the characteristics described above, the proposed cafe is physically and functionally linked to the primary retail use. It is anticipated that the majority of customers to the café will be customers who primarily visit the site to use the Asda store.

As set out in the description of the proposed use, there are no physical works proposed that would trigger the requirement for planning permission.

We trust the application is in order and we look forward to receiving notification that the application has been registered. If you have any queries please do not hesitate to contact me.

Yours faithfully



Katherine Sneedden MRTPI
Director

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