

Recommendation Report for Lawful Development Certificate for a Proposed Use or Development

REF NO: FG/106/20/CLP

LOCATION: Asda Ferring Superstore, Cafe At
Littlehampton Road
Ferring
BN12 6PN

PROPOSAL: Lawful development certificate for the proposed refitting of the existing cafe

DESCRIPTION OF APPLICATION

The proposal relates to refit of the existing restaurant area within the existing superstore. The originally approved store FG/16/12 included a restaurant area on the approved floor plans and this was implemented and has been existence since the store opened. The proposal is to refit the established restaurant area with no increase in floor area as indicated on the submitted floor plan and confirmed in e-mails from the agent.

The e-mails dated 08-10-2020 confirm the restaurant is in the same location and has the same floor area.

RELEVANT SITE HISTORY

FG/16/12/	Application for a Minor Material Amendment following a grant of planning permission FG/33/10/ for minor alterations to elevations of building, including lobby, energy centre & plant. Minor alterations to car park layout, landscaping & surface materials (this application also falls within the parish of Angmering)	ApproveConditionally 24-08-12
FG/33/10/	Amend car park layout with ancillary changes to support an unrestricted A1 retail use. Amendment to previous approval FG/174/08/. This application also falls within the parish of Angmering. This application is a Departure from the Development Plan.	ApproveConditionally 19-08-10

REPRESENTATIONS

Representations Received:

CONSULTATIONS

Consultations Responses Received:

LEGISLATIVE BACKGROUND

Section 192(2) of the Town and Country Planning Act 1990 states:-

If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

In this instance the proposed works will be assessed against whether the proposed refit constitutes development for which planning permission is required.

Provided the proposed works satisfy relevant criteria relating to the extent and scale of use, and that no restrictive conditions to use have been imposed on the site, the proposed use will constitute one which does not constitute development and would not require planning permission. If the use fails to accord with the criteria then planning permission will be required for the refit to take place.

CONCLUSION

The store was originally approved under planning permission FG/33/10 which was varied by FG/16/12. The planning history confirms that there are no restrictions on any of the planning permissions that would prevent the operation or refit of the restaurant. The existing restaurant within the Asda store 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 area and will provide new seating layouts and enhanced catering. The refitted restaurant will utilise the existing access, it will not be independently accessible and will operate within the hours of the store. The restaurant use is accepted as ancillary to the main store use. It is physically and functionally linked to the primary retail use. There are no physical works which would trigger the requirement for planning permission.

The proposed refit would fall within within Section 55 paras 1 and 2 of the Town and Country Planning Act 1990 which clarify the Meaning of "development".

Section (1) defines "development," as the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land. For the purposes of the Act " building operations " includes structural alterations of or additions to buildings; and other operations normally undertaken by a person carrying on business as a builder.]

Section (2) states the following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land.

(a) the carrying out for the maintenance, improvement or other alteration of any building of works which

- (i) affect only the interior of the building, or
- (ii) do not materially affect the external appearance of the building,

The proposed refit would fall within these criteria and therefore the works do not require planning permission.

RECOMMENDATION

PP NOT REQUIRED

The Arun District Council hereby certify that on 16-09-2020 the use/development described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and edged in black on the plan attached to this certificate, would have been lawful within the meaning of section 192 of the Town & Country Planning Act 1990 for the following reason:

The proposed refit is not considered to result in a material change of use of the store or development for which planning permission is required. No restrictive conditions to use have been imposed on the site which prevent the use proposed without first obtaining planning permission.

FIRST SCHEDULE

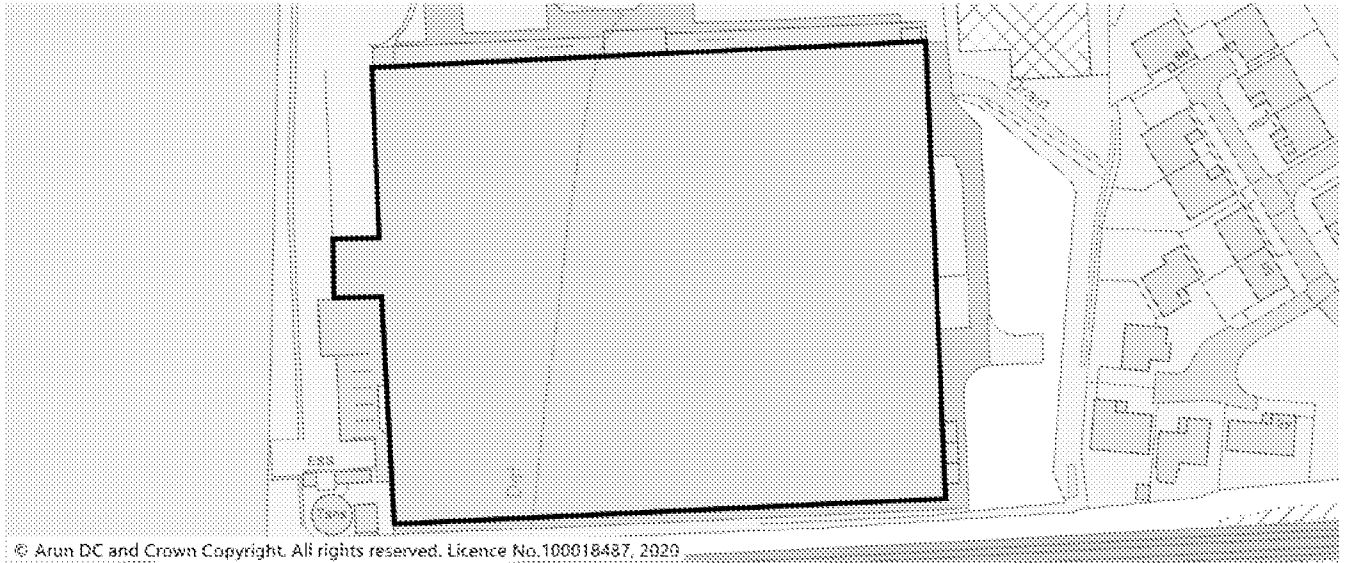
Refitting of restaurant area as specified in and shown on the following material submitted with this application:

Planning Statement- Received with the Application,
 Agent's e-mails dated 08-10-2020
 Ground Floor Plans - Received with Application
 Site Location Plan - Received with Application

SECOND SCHEDULE

Asda Ferring Superstore, Littlehampton Road, Ferring, BN12 6PN

FG/106/20/CLP - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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