

Recommendation Report for Planning Permission

REF NO: FG/135/20/PL

LOCATION: Asda Ferring Superstore
Littlehampton Road
Ferring
BN12 6PN

PROPOSAL: Variation of condition 11 of planning permission FG/16/12 to allow for additional opening hours for the store for the Christmas period to include 24 hour opening from 20th of December to 24th of December annually. This site is in CIL Zone 4 (Zero Rated) as other development.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Condition 11 of planning permission FG/16/12 states 'on any day the retail use shall be operated between the hours of 0600 and 0000 only and not at any other time.'
	The proposal seeks consent to open for 24 hours from 20th to 24th December in any year.
	It follows the temporary permission granted under FG/218/18/PL which allowed 24 hour opening from 20th - 24th December 2019.
SITE CHARACTERISTICS	Existing and established retail unit.
CHARACTER OF LOCALITY	The retail unit is located adjacent to a nursery and residential dwellings.

RELEVANT SITE HISTORY

FG/216/18/PL	Application for variation of condition 11 following grant of planning permission FG/16/12/ to allow for additional opening hours for the Christmas period to include 24 hour opening from 20th of December to 24th of December annually.	ApproveConditionally 10-04-19
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REPRESENTATIONS

None

COMMENTS ON REPRESENTATIONS RECEIVED:

None

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Environmental Health - No Objection

COMMENTS ON CONSULTATION RESPONSES:

None

POLICY CONTEXT

Designation applicable to site:
Within Built Up Area Boundary.
A259

DEVELOPMENT PLAN POLICIES

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

DSP1	D SP1 Design
DDM1	D DM1 Aspects of form and design quality
LANDM1	LAN DM1 Protection of landscape character
SDSP1	SD SP1 Sustainable Development
SDSP2	SD SP2 Built-up Area Boundary
TSP1	T SP1 Transport and Development
QEDM1	QE DM1 Noise Pollution
QEDM2	QE DM2 Light pollution
QESP1	QE SP1 Quality of the Environment
RETDM1	RET DM1 Retail development

[Ferring Neighbourhood Plan 2014 Policy 1A](#) A Spatial Plan for the Parish

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

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.

Policy 1A of Ferring Neighbourhood Plan is relevant to consideration of 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 there would be no materially adverse effect on either residential or visual amenity or the character of the area.

OTHER MATERIAL CONSIDERATIONS

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

CONCLUSIONS

Condition 11 on FG/16/12 states 'On any day, the retail use shall be operated between the hours of 0600 and 0000 only and not at any other time.' It is proposed to amend this condition to allow the following opening hours during the pre-Christmas period.

20 - 24 December (5 nights) - open 24 hrs

The store could open until midnight on 24th December in any year so permission is not required for late opening on this day. The extended hours for the 24th December relate to the hours between midnight and 0600 hours. However the applicant has advised that the store would close by 7pm on 24th.

Planning permission FG/216/18/PL was granted permission on a temporary basis in order to fully assess the impact of the development on visual and residential amenity over a Christmas period and no adverse issues resulted during this trial period.

PRINCIPLE

In this case the key policy considerations are deemed to be SD SP2 (built up area boundary), D DM1(3) (Aspects of Form and Design Quality), QE DM1 and policy RET DM1 the Arun Local Plan, Policy 1A of Ferring Neighbourhood Plan and the National Planning Policy Framework (NPPF) which supports the effective and efficient use of land. The Local Plan policies require development to be in keeping with the character of an area and not to have an unacceptable impact on residential amenity.

The Ferring Neighbourhood Plan forms part of the development plan. Policy 1A states 'Proposals for development located inside the built up area boundary will be supported, provided they are suited to an urban setting and they accord with the provisions of the Neighbourhood Plan and with other relevant development plan policies.'

The proposal is located within the built up area boundary of Ferring as defined in Arun Local Plan and is therefore acceptable in principle and for the reasons set out below is considered to comply with the provisions of the Neighbourhood Plan and with other relevant development plan policies contained in the Arun Local Plan. It increases the use of an existing building with associated car parking close to the front of the store and is suited to an urban setting. It would enhance the retail provision at this site in accordance with policy RET DM1 of Arun Local Plan.

Further the extension of retail opening hours this Christmas period would accord with the Ministry of Housing communities and Local Government recent measures allowing temporary relaxation of Monday to Saturday shop opening hours in the run up to Christmas and through January.

VISUAL AMENITY AND IMPACT ON SOUTH DOWNS NATIONAL PARK

The store and parking are existing and no extensions to the built form are proposed. There would therefore be no adverse impact on the visual amenities of the locality resulting from additional structures or alterations, but the development would add to the extent of lighting at the site for 5 nights. The site is located on the south side of the A259 opposite the National Park boundary. Any additional lighting would have an impact on the setting of the Park when viewed from the south. The store would be open overnight on winter evenings when lighting would be required for longer periods. However, given that this would be for a limited period only it is not considered to result in any significant harm to the visual amenities of the locality or the setting of the Park. The proposal would therefore accord with policies LAN DM1 and D DM1 of Arun Local Plan.

RESIDENTIAL AMENITY

The extended opening hours would only relate to 5 days a year and have been requested at what is a very busy time of year for the store. The extended hours would facilitate shopping through the night on 5 consecutive days of the year. It is unlikely that the number of customers at this time would be similar to normal day time levels and consequently the activity associated with this would be focused close to the store entrance which is not located close to the surrounding residential properties. Whilst neighbouring residential dwellings to the south should expect peace and quiet over the night time period the activity associated with opening at this time would be limited and would not result in material harm. The proposal is therefore considered to accord with policies D DM1 and QE SP1 of the Arun Local Plan.

ACCESS

The development does not propose any changes to the existing vehicular access points into the site. The store entrances will also remain unchanged by this proposal. There is sufficient opportunity for pedestrians and cycles to access the store and no existing footpaths or cycle paths or cycle policy are affected by the proposal.

CONCLUSION

The site lies within the built up area boundary and given the limited extension to opening hours and successful trial extension of opening hours in 2019, the proposal is considered to constitute sustainable development as set out in the NPPF and to accord with relevant development policies SD SP2, QESP1 and DDM1 of the Arun Local Plan and policy 1A of the Neighbourhood Plan.

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 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

APPROVE CONDITIONALLY

1 Condition 11 to read:

On any day, as a maximum, the retail use shall be operated between the hours of 0600 and 0000 only and not at any other time, with the exception of 20th - 24th December of any year when 24 hour opening is permitted.

Reason: In the interests of the amenities of the locality in accordance with policy DDM1 of the Arun Local Plan.

2 The development hereby approved shall be carried out in accordance with the following approved plans :
Site Location Plan 100-01 Rev E.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy DDM1 of the Arun Local Plan.

3 **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 identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

4 **INFORMATIVE:** This permission relates to the variation of condition 11 of planning permission FG/16/12 only. The applicant is advised and reminded that the planning conditions attached to the original planning permission number FG/16/12 remain in force and must be complied with.