

Recommendation Report for Planning Permission

REF NO: FP/15/22/PL

LOCATION: 26 Felpham Road
Felpham
PO22 7AZ

PROPOSAL: Changing retail shop unit to a cafe which involves the installation of external new kitchen extract duct and bifold doors (resubmission following FP/246/21/PL). This site is in CIL Zone 4 (Zero Rated) as other development.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application seeks to change the use of the premises from a retail shop to a cafe with the addition of an extractor unit.
SITE CHARACTERISTICS	The site is occupied by a two storey semi detached building which features a retail unit to the ground floor with accommodation above. The property is to the end of a terrace comprising ground floor retail.
CHARACTER OF LOCALITY	The area is mixed with commercial and residential units within the vicinity. Properties comprising terraced and detached properties of various styles and designs. A car sales and MOT test centre is to west of the site, residential dwellings to the east.

An application was withdrawn in January 2022 and the location of the extraction changed for this application.

REPRESENTATIONS

Felpham Parish Council provided no objection.

No representation received from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

WSCC Highways (LHA)

No vehicular access associated with this site. Considering the change of use to cafe, the LHA does not anticipate the proposals would give rise to a significant material intensification of movements to or from the site, when compared with the retail use. A nil car parking is proposed, as per the existing arrangement. Under WSCC Parking Standards for E-Class Cafe uses, the LHA expect parking provision

for 10 car parking spaces. The LHA does not anticipate the nil car parking provision would result in a detrimental highway safety impact, nor give rise to a parking capacity issue. The retail use operated a similar arrangement with no known safety issues.

Environmental Health

No objection but the following must be considered risk assessment for noise and odours, acoustic assessment from the noise from the development and from the noise arising from the customers and music, opening hours, delivery of goods. A noise assessment was submitted and the report, calculations and findings are found to be reliable.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted. A noise assessment was submitted with an odour control risk assessment and considered acceptable by Environmental Health.

POLICY CONTEXT

Built up area boundary.

DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

DDM1	D DM1 Aspects of form and design quality
TSP1	T SP1 Transport and Development
QEDM1	QE DM1 Noise Pollution
QEDM3	QE DM3 Air Pollution
QESP1	QE SP1 Quality of the Environment
DDM4	D DM4 Extensions&alter to exist builds(res and non-res)

Felpham Neighbourhood Plan 2019-31 Policy BT1 Business Expansion

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD13	Arun District Design Guide (SPD) January 2021
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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.

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 not have a materially adverse impact on the residential amenities of nearby properties nor would it have a significant adverse impact upon the established character of the surrounding area.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that

(2) in dealing with an application for planning permission the authority shall have regard to -

(a) the provisions of the development plan, so far as material to the application,

(aza) a post examination draft neighbourhood development plan, so far as material to the application,

(b) any local finance considerations, so far as material to the application, and

(c) any other material considerations.

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

PRINCIPLE

The key policies are D DM1, D DM4 , QE DM1, QE DM4 of the Arun Local Plan and the Arun Design Guide.

Felpham has a made Neighbourhood Plan with BT1 of relevance to the application. This relates to the extensions or upgrading of employment buildings.

CHANGE OF USE

The use of the building has been included within the description. It is considered that the change from a shop to cafe is permitted under Class E and as such does not require planning permission.

DESIGN AND VISUAL AMENITY

The building is a semi- detached two storey building with a single storey building to the northern side.

The change of use of the building to a cafe will result in minor external changes. This includes the replacement of 2 large windows with bi fold doors to the front. This will extend across the majority of the front of the building. The design is in keeping with the retail units within the High Street.

With regards to the extraction, it will be to the northern elevation and extends upward onto the roof. This will be visible from the street scene from the front and side, however its location is considered acceptable and it does not appear an unduly dominant feature upon the building.

The building will be painted grey with a new fascia sign which is subject to the another application.

The Arun Design Guide states 'Retaining and enhancing windowed shop frontages which are in keeping with the existing character of the area.' The proposal complies with this, with the shopfront appearing in keeping with the area.

The external changes to enable the conversion are minor and, it will not give rise to significant harm on the appearance or character of the area and street scene in accordance with D DM1 and D DM4 of the

Arun Local Plan and the Arun Design Guide.

RESIDENTIAL AMENITY

The use as a cafe would result in the rear of the building being converted to a kitchen. The kitchen faces east with a garden space serving No.2 directly the rear, with bedrooms to the ground floor. There are currently 2 windows serving the kitchen. These are demonstrated on the plan to be obscured glazed/fixed shut. This will assist with mitigating against noise and odours that may be experienced to the property at the rear and will be conditioned.

2 other east facing windows serving a bathroom will be conditioned to remain obscured glazed to ensure no adverse overlooking will be achievable.

Opening hours are proposed between 8am-4pm and 6pm-11pm. Whilst this is later than some other units there are other examples which are open until this time and as such the opening times are considered acceptable.

Environmental Health requested a risk assessment was submitted to demonstrate the odour levels that may arise. This demonstrated a low level odour due to the small number of covers and type of food that is to be served. A condition was requested for noise levels to be assessed from the extraction unit, which is in close proximity to residential properties. A noise assessment was submitted. This included details of a background noise survey carried out between the 25th February 2022 and 28th February 2022 to assess the background sound pressure levels at the site and more specifically at the closest location to upstairs residents. Environmental Health find it reliable with mitigation measures sufficient. As such, the proposal would not result in adverse noise upon nearby amenity.

The alteration to the property enables the continuation of retail/employment services in the area and does not cause unacceptable harm to the amenities of surrounding properties and as such complies with BT1 of the Neighbourhood Plan.

The use/extraction are not considered to result in adverse harm on amenity by way of noise and odour. The extraction unit is in a position as not to result in overbearing or overshadowing impacts upon amenity and the development accords with D DM1, D DM4, QE DM1 and QE DM4 of the Arun Local Plan.

PARKING

The cafe provides no parking as per the existing arrangement. Under WSCC Parking Standards for E-class cafe uses, it would be expected that a parking provision for 10 car parking spaces is provided. However the existing retail use operated a similar arrangement. The site is in a sustainable location and there is a lay by for parking to the front of the site and a public car park opposite in Links Avenue. The parking arrangements will operate similar to that of the shops in the vicinity which have no individual parking provision. The proposal will not result in a significant harm to the highway or parking to the area and accords with TSP1 of the Plan.

SUMMARY

The development accords with relevant policy and as such is recommended for approval in accordance with paragraph 11d of the NPPF subject to the following conditions and informatives.

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 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 following approved plans

 - Location and Block Plan - PL-01 C
 - Proposed Elevations - PL-04 C
 - Proposed Floor Plans - PL-03 B
 - Design Statement including Technical Details
 - Noise Assessment Issue 2' (dated 1/04/2022)
Reasons: 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 extraction unit shall be implemented in accordance with the noise levels detailed in the assessment (Issue 2' (dated 1/04/2022)). Within 3 months of the date of this approval, or installation of the extraction unit (whichever occurs sooner), a verification report shall be submitted to the Local Planning Authority within 3 months to demonstrate that have been met. The extraction unit shall operate in accordance with the noise levels detailed in the assessment (Issue 2' (dated 1/04/2022)) at all times.

Reasons: To protect the amenity of local residents in accordance with Policy QE DM1 of the Arun Local Plan.
- 4 The use hereby permitted shall only open to customers within the following times 08.00 - 23:00 Monday to Saturday and 8:00 - 16:00 Sunday and Bank Holidays.

Reason: To protect the amenity of local residents in accordance with Policy QE DM1 of the Arun Local Plan.

- 5 The two ground floor windows on the eastern elevation of the building serving the kitchen shall at all times be glazed with obscured glass and fixed shut.

Reasons In the interests of the amenities of the occupants of nearby properties in accordance with policies D DM1 of the Arun Local Plan.

- 6 The two ground floor windows on the elevation of the building serving the toilets shall at all times be glazed with obscured glass and only openable at a high level, at least 1.7m above finished floor level.

Reasons In the interests of the amenities of the occupants of nearby properties in accordance with policies D DM1 of the Arun Local Plan.

- 7 INFORMATIVE: The granting of this planning permission does not in any way indemnify against statutory nuisance action being taken should substantiated complaints within the remit of the Environmental Protection Act 1990 be received.

For further information, please contact the Environmental Health Department on 01903 737555.

- 8 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.