

Recommendation Report for Planning Permission

REF NO: LU/216/20/PL

LOCATION: 2 Wick Parade
Wick Street
Littlehampton
BN17 7JQ

PROPOSAL: Change of use from newsagents (A1 shop) to hot food takeaway (A5 Hot Food Take Away), replacement shopfront including ATM, external alterations to rear elevation & installation of roof mounted extract flue & fresh air intake pipe (re-submission following LU/84/20/PL). This application is in CIL Zone 4 (Zero Rated) as 'other development'.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
SITE CHARACTERISTICS	Vacant ground floor retail unit. Residential flats above. Within Wick Parade, a three storey, post-war, purpose-built, parade of commercial units at ground floor level with flats on upper floors. Communal parking area to the front of the parade. Service area (with bins), garages and parking to the rear of the parade.
CHARACTER OF LOCALITY	Wick Parade is not a primary or secondary shopping frontage but is defined as a Suburban Centre (under the Arun Local Plan) and as a Local Centre (under the Littlehampton Neighbourhood Plan). Wick Parade is to the west of Wick Street within the Built-up Area Boundary of Littlehampton. Edge of town centre character with mix of residential dwellings and commercial units. Directly to the north of Wick Parade is a Grade II listed thatched cottage (Leila Cottage, no. 129 Wick Street).

RELEVANT SITE HISTORY

LU/84/20/PL	Change of use from newsagent (A1 Shops) to hot food take away (A5 Hot Food Take Away), external alterations to rear elevation & installation of roof mounted extract flue & fresh air intake pipe.	Withdrawn 26-05-20
LU/277/06/	Installation of 1no. outdoor air-conditioning unit to rear of property.	ApproveConditionally 17-10-06

LU/232/06/

Installation of automated teller machine.

ApproveConditionally
01-09-06

Previous application (LU/84/20/PL) for similar proposal withdrawn by the applicant in May 2020, to enable a longer period of marketing of the premises as a retail unit. Current application also now includes replacement shopfront and provision of an ATM.

REPRESENTATIONS

Littlehampton Town Council -
OBJECTION.

- Would result in an over-concentration of A5 units in this Local Centre, contrary to Policy 9 of the Littlehampton Neighbourhood Plan.
- Concerns about detrimental impact on amenity of residential properties above unit from increased odours and rubbish from A5 type use.
- Reinstatement of ATM welcomed, but if application approved suggest bollards be placed in front of ATM as a deterrent against vandalism/break-ins.

1 other representation was received, as follows:

- Already 6 hot food takeaways within vicinity but most important priority is bringing unit back into use.
- Issues with refuse storage at Wick Parade. Landlord could be asked to provide permanent solution to this issue.
- Welcome reinstatement of the cashpoint, should be conditioned, want free to use ATM.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted. Comments addressed in Conclusions section of report. A decision on this application is delegated to officers as per agreed guidelines.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

POLICY:

Wick Parade defined as a Suburban Centre (para 9.1.6 of the ALP). Therefore, policies RET SP1 and RET DM1 in relation to Suburban Centres apply. Where appropriate marketing has been undertaken, technically RET DM1 permits loss of retail. However, change to a hot food take-away may reduce the range and accessibility of goods and services, so the proposal could go against RET SP1. Furthermore, the Littlehampton Neighbourhood Plan (LNP) identifies Wick Street as a Local Centre and, while it is not clear that Wick Parade is included in this, it is assumed that it is. Policy 9 of the LNP sets out a 50% threshold for A2-A5 uses of total A1-A5 uses within the Local Centre. There may be a requirement for the Town Council to provide evidence of the % use in Wick Street (including Wick Parade) to support their position/or for the LPA to consider that matter when looking at the suburban centre as a whole. Overall, unless there are strong viability arguments, the change from retail to a takeaway should be refused due to being against the development plan.

ECONOMIC REGENERATION:

No formal comment. Understand and sympathise with the Parish Council's view, but if there are no

planning grounds to support the objection, then it goes down to preference. As a local authority we are not in the position to curate which businesses can or cannot open, unless there are licensing or planning concerns.

ENVIRONMENTAL HEALTH:

No objection in principle, but the following matter should be addressed before first use:

The layout plan shows a toilet opening onto the kitchen/food handling area without an intervening lobby, which does not comply with food hygiene requirements.

Request conditions; installation of a grease trap/separator in kitchen drainage/waste disposal, details of extraction and treatment of cooking fumes and odours, plant noise and vibration, a noise report, prohibiting food or drink to be consumed outside the premises, and restrictions on opening and delivery hours.

WSCC HIGHWAYS:

No objection. The LHA does not consider that this proposal would have an unacceptable impact on highway

safety or result in 'severe' cumulative impacts on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 109), and that there are no transport grounds to resist the proposal.

COMMENTS ON CONSULTATION RESPONSES:

Noted. Comments addressed in Conclusions section of report.

POLICY CONTEXT

Designation applicable to site:

Built-up Area Boundary

Suburban Centre - Arun Local Plan

Local Centre - Littlehampton Neighbourhood Plan

Grade II listed building (Leila Cottage) to north of Wick Parade

DEVELOPMENT PLAN POLICIES

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

RETDM1	RET DM1 Retail development
RETSP1	RET SP1 Hierachy of Town Centres
DDM1	D DM1 Aspects of form and design quality
DDM4	D DM4 Extensions&alter to exist builds(res and non-res)
DSP1	D SP1 Design
QEDM1	QE DM1 Noise Pollution
QEDM3	QE DM3 Air Pollution
QESP1	QE SP1 Quality of the Environment
WMDM1	WM DM1 Waste Management
TDM1	T DM1 Sustainable Travel and Public Rights of Way
TSP1	T SP1 Transport and Development
EMPDM1	EMP DM1 Employment Land: Development Management

[Littlehampton Neighbourhood Plan 2014 Policy 9](#) Local Centres

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.

The policies contained within the made Littlehampton Neighbourhood Plan are relevant in the determination of this planning 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 the change of use would be acceptable, and the proposals would have an acceptable impact, subject to conditions, on visual and residential amenity, waste disposal, and highways/parking and transport.

OTHER MATERIAL CONSIDERATIONS

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

CONCLUSIONS**CHANGE OF USE - RETAIL TO TAKE-AWAY:**

The application proposes to change the use of the current retail unit (former Use Class A1) to a hot food take-away (former Use Class A5). These Use Classes are referred to as 'former' since a revised Use Class Order came into effect on 1st September 2020, which deleted the previous A type uses and introduced a new Class E for commercial, business, and service uses. Since the current application was submitted prior to the introduction of the new Use Class Order on 1st September, the application is to be determined under the transitional arrangements (which are in place until 31st July 2021). The application has thus been considered and determined on the basis of the previous use classes; i.e. a change from A1 retail to A5 hot food take-away. Notwithstanding this, since Class E excludes A5 type uses and that type of use is classed as a 'Sui Generis' Use under the new Use Class Order, in the event of planning permission being granted, the permitted use as a 'Sui Generis' hot food takeaway could not be moved across to any other operations within Class E thereafter and any future change of use would require planning permission.

Wick Parade is not a primary or secondary shopping frontage but is defined as a Suburban Centre (under the Arun Local Plan) and as a Local Centre (under the Littlehampton Neighbourhood Plan).

Arun Local Plan (ALP) policy RET SP1 states that the expansion of Sub-urban Centres including shopping parades will be welcomed, provided that it adds to the range and accessibility of goods and services. ALP policy RET DM1 states for shops in the Sub-urban Centres change of use from retail will not be permitted. However, an exception may be made where it can be demonstrated that retailing is no longer a viable use, particularly where the premises have remained vacant for a long period and where reasonable attempts have been made to market the premises for retail purposes. Policy 9 (Local Centres) of the Littlehampton Neighbourhood Plan (LNP) states that "within the local centres, the Neighbourhood Plan: supports proposals for the development of A1-A5 uses, provided the number of A2-A5 uses does not exceed 50% of the proportion of the total number of A1-A5 uses in the local centre.

The unit has been in use as a newsagents (A1) but the applicants state that this closed in early March 2020 and the unit has been vacant since then. A Marketing Report (prepared by Marshall Clark, commercial property agents) has been submitted with the application. This states that marketing (which included adverts on 3 websites, agents board in window of unit, email shot to agents database of potential clients) has been undertaken since November 2019 (9-10 months until date of submission of the application). The agent confirms that enquiries have been minimal and that the only serious interest has been shown by a hot food take-away operator. The LPA acknowledges that there are a variety of newsagents and convenience stores selling newspapers and magazines in the vicinity of the site including; Farm Foods (2 units away on Wick Parade), Morrisons supermarket (about 0.3m to the north), and another newsagents/Post Office (just to the north, no.137 Wick Street) and also one to the south. This creates competition which means it is considered that the unit is unlikely to attract another newsagent/convenience store and that there is no need to retain this unit for newsagent/convenience shop use. The LPA accepts that the retail sector is struggling (especially in the current climate with the Covid-19 pandemic), that it has been demonstrated that retailing is no longer a viable use for the unit, that the unit has remained vacant for some time, and that reasonable attempts have been made to market the premises for retail purposes. As such, the change of use from retail in this instance is supported by ALP policy RET DM1.

However, the LPA also recognises that the change of use may reduce the range of goods and services within the shopping parade/Sub-urban Centre, which would be contrary to ALP policy RET SP1. In addition, Wick Street (and presumably Wick Parade) is identified within the LNP as a Local Centre, and Policy 9 of the LNP requires that within Local Centres the number of A2-A5 uses does not exceed 50% of the total number of A1-A5 uses. It is acknowledged by the LPA that Wick Parade itself has quite a high number of A5 and A3 uses. Based on ALP policy RET SP1 and LNP policy 9, it is necessary to consider the existing range of goods and services and proportion of (former) A Class uses within the Local Centre as a whole. An assessment has been undertaken by the LPA which estimates that there are currently 33 commercial units within Wick Street/Wick Parade, of which 24 units or 72% are in (former) A1 use, 7 units or 21% are in (former) A2-A5 use and the remaining 2 units or 7% are in other uses (B1 office/sui generis). As such, the proposed loss of 1 (former) A1 unit and addition of 1 (former) A5 unit would result in the number of A2-A5 uses increasing to 8 units or rather 24% of the total number of (former) A1-A5 uses. This would fall well below the 50% threshold set out in LNP policy 9 and the proposed change of use would not result in a harmful reduction in the range of goods and services available nor an over-concentration of A2-A5 type uses in this Local Centre.

On balance, taking account of the marketing undertaken, and the local retail offer in the area, it is concluded that the proposed change of use from retail to a hot food take-away would be acceptable in this instance, and would accord with ALP policy RET DM1, RET SP1 and LNP Policy 9. It would also have the advantage of bringing a currently vacant unit back into commercial use, and providing employment opportunities, in accordance with EMP DM1.

VISUAL AMENITY:

The proposal includes the replacement of the existing shopfront with new powder coated aluminium framed glazing and the replacement of one of the existing glazed panels with a solid wall panel and ATM. The existing shopfront is aluminium framed and there are other aluminium framed shopfronts and a variety of materials and designs for shopfronts within the parade. At the rear, the proposal includes a reduction in the width of the high level ground floor window to accommodate the addition of intake and extract flues at flat roof level above the ground floor. These would be sited at low level on the building, and at the rear of the parade away from public view and thus there would be limited visibility of them. In addition, there are already a range of air con units and flues along the units at the back of this parade. As such, the proposed alterations and additions would have an acceptable visual impact on the appearance of the building, the parade, and local area, in accordance with policies D SP1, D DM1 and D DM4 of the Arun Local Plan.

RESIDENTIAL AMENITY:

The commercial use is in character with the existing shopping parade. The LPA acknowledges that a hot food take-away use (and the proposed associated plant i.e. air con/flues etc.) could have greater impacts on residential amenity, for example in terms of general disturbance, noise and odours, than the existing retail shop use. The nearest residential properties are the flats at upper floor level directly above the commercial unit and along the shopping parade and the properties at the rear, on Selwyn Avenue. The Council's Environmental Health Officer has provided comments, requesting conditions requiring installation of a grease trap/separator in kitchen drainage/waste disposal, details of extraction and treatment of cooking fumes and odours, plant noise and vibration, a noise report, prohibiting food or drink to be consumed outside the premises, and restrictions on opening and delivery hours. Subject to these conditions, the impact on residential amenity could be controlled, in accordance with the NPPF (para 127), and policies D DM1, QE SP1, QE DM1 and QE DM3 of the Arun Local Plan.

WASTE DISPOSAL:

Currently refuse storage is at the rear of the unit where there are large commercial wheelie bins within the service area at the back of the parade. This arrangement is not likely to change.

However, the proposed site plan or floor plans do not show refuse storage to service the hot food take-away use. As such, in order to ensure appropriate refuse and recycling storage is secured for this use, in accordance with ALP policy WM DM1 and the National Planning Policy for Waste, a planning condition will be added.

HIGHWAYS, PARKING & TRANSPORT:

Currently, parking for visitors of Wick Parade takes place at the communal car park to the front of the parade, and there are garages and some parking for residents/staff on the access service road at the rear of the parade (although this area must also accommodate access for refuse/delivery vehicles and turning).

The County Highways Authority, WSCC, have provided comments on the application. They confirm that the proposed use is not anticipated to result in a material intensification of use of the existing access point between Wick Parade and Wick Street over the existing A1 use.

The ADC Parking SPD expects that approximately 6 car parking spaces in total would be required for the existing A1 use of this size (approx. 88sqm) and that an A5/A3 use (with approx. 32sqm of public areas)

would require approximately 6 parking spaces for customers and 2 staff parking spaces. The applicant has advised that an informal parking area to the rear of the site (as well as the communal car park to the front of the parade) is also available; as such County Highways conclude that it is not unreasonable to assume that this area at the rear could accommodate some of the staff parking demand. Whilst on-street car parking is limited in the immediate vicinity there are comprehensive parking restrictions prohibiting vehicles from parking in places that would be detrimental to highway safety. County Highways conclude it is considered that highway safety would not be detrimentally affected through the proposed car parking provision. They advise that the LPA may wish to consider the potential impacts of this development on on-street car parking from an amenity point of view.

The LPA have considered this and conclude that given the expected increase in car parking demand is relatively small (2 spaces), and taking into account the existing car park to the front of the parade and the informal parking area to the rear, the potential increase in car parking as a result of the proposed change of use would be unlikely to result in significant on-street car parking pressure or impacts on local amenity.

The ADC Parking SPD does not require cycle parking provision for A1 uses below 100sqm, which this unit is. However, for A5 uses, the standards do require 1 cycle parking space per 4 staff members and 1 cycle parking space per 25sqm for customers. Given the size of the unit (approx. 88sqm) and the expected number of staff for this type of use (between 1-4), the LPA considers it reasonable to expect the provision of 4 cycle parking spaces. The proposed site plan or floor plans do not show any cycle storage. As such, this is to be secured by condition.

Subject to condition, the proposal would have an acceptable impact on the operation and safety of the highways network, parking provision, and would encourage sustainable modes of transport, in accordance with the NPPF, policies T SP1 and T DM1 of the Arun Local Plan and the ADC Parking SPD.

SUMMARY:

The proposed change of use would be acceptable, and the proposals would have an acceptable impact, subject to conditions, on visual and residential amenity, waste disposal, and highways/parking and transport. 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 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:

Existing and Proposed Floor Plans & Elevations, Drawing No. 949/01 Rev A

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policies D SP1, D DM1, D DM4, QE SP1, QE DM1 and QE DM3 of the Arun Local Plan.

- 3 Prior to the first operation of the premises, the drainage serving the kitchen at the proposed commercial hot food business shall be fitted with a grease trap / separator of a proportionate capacity to effectively contain grease residue arising from the estimated numbers of hot meals served and waste water flow rate. Prior to installation, the applicant shall provide the Local Planning Authority with details of their proposed grease trap / separator in order to demonstrate design and installation will be in compliance with BS EN 1825-1:2004 and BS EN 1825-2:2002 (Current Status: 'Under Review') or other effective means of grease removal.

Reason: To protect water quality and the amenity of local residents in accordance with Policies W SP1 and QE SP1 of the Adopted Arun Local Plan.

- 4 Prior to the first operation of the premises, a scheme and maintenance schedule for the extraction and treatment of fumes and odours generated from cooking or any other activity undertaken on the premises, shall be submitted to and approved in writing by the Local Planning Authority. Any equipment, plant or process provided or undertaken in pursuance of this condition shall be installed prior to the first operation of the premises and these shall thereafter be operated and retained in compliance with the approved scheme.

Reason: To protect the amenity of local residents in accordance with Policies QE SP1 and QE DM3 of the Adopted Arun Local Plan.

- 5 Prior to the first use of the premises, details of any plant (including ventilation, refrigeration and air conditioning) and/or ducting system to be used and the method of control of noise and vibration of this plant shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details, retained in perpetuity as agreed and the plant/equipment shall be permanently maintained in good order thereafter.

Reason: To protect the amenity of local residents in accordance with Policies QE SP1, QE DM1 and D DM1 of the Arun Local Plan.

- 6 The use hereby permitted shall not be open to the public outside the following hours: 10:30 - 23:00 hours Monday - Saturday and 10:30 - 22:00 hours Sunday or any public holiday.

Reason: In the interests of amenity and the environment in accordance with policies QE SP1, QE DM1 and D DM1 of the Arun Local Plan.

- 7 Deliveries or collection of waste by commercial vehicles shall only be made to or from the site between 08:30 hours and 18:00 hours Monday to Saturday and at no time on Sundays, Bank or other Public Holidays without the prior written consent of the Local Planning Authority.

Reason: To protect the amenity of local residents in accordance with Policies QE SP1, QE DM1 and D DM1 of the Arun Local Plan.

- 8 No part of the development shall be first occupied until details of the refuse & recycling storage and either kerbside collection point for municipal refuse vehicles or a Waste Management Plan agreed with a commercial refuse collection company has been submitted to and approved in writing by the Local Planning Authority. The approved bin storage shall thereafter be retained and any approved Waste Management Plan adhered to.

Reason: To safeguard the appearance of the property and the amenities of the area in accordance with policy D DM1, QE SP1 and WM DM1 of the Arun District Local Plan.

- 9 No part of the development shall be first occupied until details of covered and secure cycle parking storage (accommodating a minimum of 4 cycle parking spaces) has been submitted to and approved in writing by the Local Planning Authority. The approved cycle parking storage shall thereafter be permanently retained in good working condition.

Reason: To provide alternative travel options to the use of the car, in accordance with policies T SP1 and T DM1 of the Arun Local Plan.

- 10 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.