

Recommendation Report for Planning Permission

REF NO: LU/243/17/PL

LOCATION: 56-57 Pier Road
Littlehampton

PROPOSAL: Conversion & minor extension of existing restaurant & five bedroom flat to create a shop unit & 6 No. residential units (resubmission following LU/71/17/PL).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

As above. The proposal retains a shop use to part of the upper ground floor and converts some of the storage area in the lower ground floor to a shop unit, the accommodation above comprising a 4 bedroom dwelling is converted and the premises are extended to create 4 no 1 bedroom flats and 2 no 2 bedroom flats. Dormers would be added to the front roof slope, a stair tower to the rear and a rear extension 2.8m in depth at ground and first floor and 7m at second floor. The existing rear veranda and garage are to be demolished.

SITE AREA

288 sqm

RESIDENTIAL DEVELOPMENT DENSITY (NET) 21 dwellings per hectare

TOPOGRAPHY

Predominantly flat.

TREES

None of any significance affected by the proposed development.

BOUNDARY TREATMENT

Premises is located on back edge of footpath. Rear courtyard area enclosed by 2m high fencing

SITE CHARACTERISTICS

The application site comprises a 4 storey premises with a restaurant at ground floor and residential on the upper floors. White painted rendered walls and plain clay tile roof. There is a rear garden area and space for parking a vehicle to the rear. The site is generally flat and is located adjacent to the River Arun.

CHARACTER OF LOCALITY

The area is part of a residential/retail/commercial street comprising a uniform character with older style terraced properties of similar height in small plots abutting the highway with gardens/service

areas to the rear within an urban environment. The ground floor uses comprise a parade of retail/restaurant uses.

RELEVANT SITE HISTORY

LU/168/07/	Change of use from restaurant & large single flat to restaurant and single dwelling plus garage	ApproveConditionally 25-07-2007
LU/71/17/PL	8 No. dwellings, conversion & change of use from A3 (Food & Drink) to A1 (Shops) to create shop unit at lower & ground floor, two storey rear extension & external alterations.	Withdrawn 22-06-2017

Application LU/228/06 for conversion of the whole of the ground floor restaurant to residential use was refused by Committee for the following reason:

'The introduction of a residential unit at street level in a predominantly commercial frontage catering for the tourism industry would be out of character with the area and thereby contrary to Policies DEV1 of the West Sussex Structure Plan and GEN7 of the Arun District Local Plan.'

The later application LU/168/07 was subsequently approved for use of part of the ground floor to convert to residential.

There has been a change in policy framework since 2007 in that policy TOU SP1 of the Publication Version of the Local Plan is now a material planning consideration which states ' Sustainable tourism growth for Arun requires the protection of features that make the District attractive to visitors. Proposals for visitor related development will be determined by Arun's capacity to absorb such growth; for Arun this means tourism growth which provides benefits to local people, protects and enhances the natural and enhances the environment, extends the visitor season, ensures a viable visitor economy and encourages long-term visitor interest/activity'.

This proposal provides a retail use at lower ground floor and retains a retail use at ground floor . It is therefore compliant with policy.

The previous application LU/71/17/PL was withdrawn by the agent prior to determination. This application has reduced the number of units by 2 which has increased the amenity area to the flats . The rear staircase has also been reduced in size and height.

REPRESENTATIONS

Representations received:

Littlehampton Town Council

Objection - The proposals were not consistent with the Policy DDM4 of the Emerging Local Plan which state that "The design of individual buildings and spaces is a vital part of successful place-making, and the Council will seek to ensure that all development and spaces are well designed and of a high quality". Regarding the loss of garage space, Members disagreed with the assessment of the Highways Authority regarding the need for parking provision as it was considered that the future occupants would not be car free. Regarding the layout of the accommodation members questioned whether the two one-bedroom flats met the required space standards and were also concerned about the safety of occupants in the event of a fire. It was therefore considered that the application should be accompanied by an independent fire safety audit to give reassurance on this point.

Members also questioned the veracity of the proposal to change the use of the ground floor. The loss of a restaurant in favour of a retail unit was considered detrimental to the visitor economy and Members also felt that the split-level design of the retail unit and lack of toilet facilities rendered it non-viable for commercial purposes. There also appeared to be no consideration of the access requirements of people with disabilities prompting Members to question if the proposal was DDA compliant.

One Objection - Given the age of these buildings, i.e. built in the 1800's they have no proper foundations. They have already taken a real pounding when the walkway was built with the piling undertaken by the Environment Agency. Also there is nowhere for anyone to park at the best of times as it is without all the extra flats that this planning application applies for.

Comments on Representations received:

Fire safety, toilet provision and accessibility would be covered by Building Regulations and are not planning matters. The restaurant use of the premises could be altered to retail purposes as permitted development and whilst its retention would be desirable it cannot therefore be controlled.

The proposal does meet the nationally described gross internal floor space standards. With regard to external space standards in policy DDM4 whilst the proposal is not wholly compliant the site is located close to areas of public open space and the provision is therefore deemed acceptable. (This expanded in the conclusions section of this report)

Damage caused by construction is a private legal matter.

CONSULTATIONS

Environment Agency
Engineers (Drainage)
Engineering Services Manager
WSCC Strategic Planning
Economic Regeneration
Engineers (Coastal Protection)
Environmental Health

Consultations responses received:

Environmental Health Officer - Informative.

Acoustic Report: Should it become the intention to operate an A3 restaurant use rather than an A1 shop use now proposed, then it will be necessary to provide an acoustic report in accordance with the requirements of BS4142 to identify the effect of the use of any mechanical ventilation system which may impact upon the proposed development. Such an acoustic report together with any mitigation which may be deemed to be necessary, to be provided to the satisfaction of the Planning Department.

Any food business provided to the as yet undefined shop area, is likely to require registration with the

Environmental Health Department and will need to comply with the appropriate food safety legislation. The applicant is advised to contact this Department for further advice.

Private Sector Housing

Fire Safety - Appropriate fire precaution facilities and equipment must be provided of such type, number and location as are considered necessary. Guidance on fire safety is contained in the LACORS guidance document - "Housing - Fire Safety, Guidance on fire safety precautions for certain types of existing housing". A room where the only escape route is through another room is termed an "inner room" and poses a risk to its occupiers if a fire starts unnoticed in the outer

room. The escape routes to all the flats is via the kitchen, this can be overcome in bedroom 1 of the upper ground floor and first floor by ensuring that the window in the bedroom is an escape window and adequate fire protection within the flat. However, due to the nature of the building being terraced this is not going to be possible in bedroom 2 of both flats on the upper ground floor and an escape window is not acceptable at second floor level therefore these flats must be redesigned to ensure adequate fire precautions. There should be adequate fire separation between the commercial unit on the ground floor and the residential flats above.

Room Sizes should meet the minimum standards for houses in multiple occupation if the flats are intended to be rented. Any bathrooms and kitchens without windows for natural ventilation should have adequate mechanical ventilation.

General - Must meet the requirements of the Housing Act 2004 and be free of Category 1 and significant Category 2 Hazards;

- The provision of natural ventilation and lighting to the bedrooms via a light well is not ideal, and a lack of view/aspect can be detrimental, therefore an alternative layout is recommended.

Environment Agency - According to the Environment Agency flood risk maps and records the site is shown to be within an indicative tidal flood risk area (high risk) should the river defences breach or be overtopped.

Whilst we acknowledge that the location benefits from a brand new flood defence, when assessing the suitability of developments shown to be potentially at risk from flooding we have to look at the risk posed by an undefended scenario.

Furthermore applying the principles of Flood Risk Standing Advice to this application is not appropriate, and it should be borne in mind that the development proposals fall under the category of 'Highly Vulnerable' in accordance with Table 2 in Section 25 of the Flood Risk and Coastal Change Planning Practice Guidance to the National Planning Policy Framework. The proposals include habitable rooms at basement level and ground floor level, thus increasing the amount of habitable units and increasing the number of people at the risk. Overtopping of the defences would result in rapid inundation, with flood depths in excess of 3metres.

We therefore object to the application on the basis that an inadequate Flood Risk Assessment (FRA) has been submitted.

For the proposals to be acceptable it would need to preclude habitable rooms at basement and ground floor level. Development (particularly bedrooms) would need to have a finished floor level set above the 1 in 200year undefended level plus an allowance for climate change of 4.94mAOD.

Basements would only really be suitable for storage/ancillary purposes (as previous use). Ground floor levels could be used for habitable if internal tanking could be installed to the 1 in 200 year plus climate change undefended level of 4.94mAOD, subject to the 'Communities In Practice Guidelines', suitable safe egress and access and Building Control approval.

In accordance with the Planning Practice Guidance (Ref. ID: 20150415), please notify us by email within 2 weeks of a decision being made or application withdrawn. Please provide us with a URL of the decision notice, or an electronic copy of the decision notice or outcome.

Drainage Engineer - No objection to the proposal on coast protection grounds although it must be appreciated that the area is still within flood zones 2 & 3.

Note that the proposal includes installing lights, at and below footpath level, into the 'lower ground floor' which on one drawing is described as a basement and/or store - there may also be headroom issues here, as I cannot see what the existing headroom is from an existing section - is the floor of the 'lower ground floor' staying as existing basement or might there be a wish to extend down to gain headroom, in which care will need to be taken in carrying this out.

County Highways - No Objection. The site is located in Pier Road, a busy riverside street with a mix of retail, restaurant and residential units. The area has recently been improved over the years to accommodate the environment agency flood defence works to the riverbank which included a new riverside public space. This work is now complete and the whole area is beginning to be enhanced and redeveloped.

The road itself has a 30mph speed limit and enforceable parking restrictions along both sides. The site is within a busy built up area and therefore this development is car free. No provision for parking can be accommodated and therefore any cars would have to be parked in the surrounding streets. There are parking restrictions in place due to its close proximity to the riverside, however if parking is required on-street parking can be found in the vicinity.

Access to the rear of the property is taken from Clifton Road, and South Terrace both roads are maintained by WSCC up to a point however; the main section behind the proposed units is privately owned. It is wide enough for 1 car to travel down it and can be accessed from both the north and the south. There could be potential for residents or shop keepers to use this as a drop off, and some units have garages but parking could not take place on this section of road as there is not enough space.

Cycle storage will be provided in each unit to encourage sustainable transport options and the site

is located in walking distance to the station and bus services. Whilst the renovation works are undertaken should there be a need for hoarding or the placing of skips in the highway then appropriate licences must be obtained.

Economic Development - No objection on the basis that retail is kept. Would be concerned to see anything other than retail/leisure at ground floor level.

Comments on Consultation responses:

- comments noted

POLICY CONTEXT

Designation applicable to site:
Within Built Up Area Boundary
Flood Zone 3a

DEVELOPMENT PLAN POLICIES

[Arun District Local Plan 2003:](#) GEN7
GEN10
DEV26
DEV27

The Form of New Development
Tidal Flooding and Coastal Defence
Criteria for Retail Development
Retail Development Outside the Principal
Shopping Areas

[Publication Version of the Local
Plan \(October 2014\):](#)

D DM1 Aspects of Form and Design
Quality
D DM4 Extensions and Alterations to

Existing Buildings (residential and non-residential)
 D DM2 Internal Space Standards
 D DM3 External Space Standards
 TOU SP1 Sustainable tourism and the visitor economy
 RET DM1 Retail Development
 RET SP1 Hierarchy of Centres
 W DM2 Flood Risk

Littlehampton Neighbourhood Plan 2014 Policy 1 The Presumption in Favour of Sustainable Development
 Littlehampton Neighbourhood Plan 2014 Policy 2 A Spatial Plan for the Town

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

A new local plan is in preparation may be a material consideration when determining Planning Applications. At this stage the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and supporting documents were submitted for independent examination on 30 January 2015. The Examination into the submitted plan was commenced but is currently suspended whilst Arun District Council addresses matters raised by the Inspector.

A number of Main Modifications to the Arun District Local Plan 2011-2031 (Publication Version) October 2014 were approved by the Council on 22nd March 2017 and consultation on these has taking place. The Main Modifications should be read alongside the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and where there are changes the Main Modification may also be material consideration to take into account. The examination is due to re-commence in Autumn 2017 following publication of modifications to the Plan.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation(Reg.14).

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton. The written Ministerial Statement of 13 December 2016 confirms that relevant policies for the supply of housing in Neighbourhood Plans should not be deemed to be out of date where all of the following circumstances arise;

- The NDP has been part of the development plan for 2 years or less or the ministerial statement is less than 2 years old
- The NDP allocates sites for housing
- The Council can demonstrate a three-year supply of deliverable housing sites

Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation(Reg.14).

Policy 1 'The Presumption in Favour of Sustainable Development' and Policy 2 'A Spatial Plan for the Town' are 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 conflict with relevant Development Plan policies in that the provision of residential units at ground floor and basement level would result in an unacceptable risk of flooding.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

The site lies in an urban area where the principle of development is considered acceptable. The residential use on upper floors and extension to accommodate additional space is considered acceptable subject to no adverse impact on amenity. The use of the ground floor in part for residential purposes is also acceptable. A retail use is provided at lower ground floor and retained at upper ground floor and would be in keeping with use of the adjacent sites and the visitor/tourism use of the parade generally. The proposal also incorporates replacement shop front style windows, rather than windows of domestic proportions and style at ground floor which reflects the history of the site and accords with the appearance of other shop fronts in the locality. There would therefore be no adverse impact on the character of the area.

The extensions to the rear of the premises are of limited proportions and could be conditioned to be constructed of materials to match the existing property they would be set down below the roof line and would not project significantly to the rear. A gap of 9m is provided between the stair

tower and the rear boundary. The rear of buildings in this section of Pier Road comprise extensions/flues/outbuildings and the style and design of the extensions proposed would not be out of keeping with the visual amenities of the locality.

With regard to the residential amenity of proposed occupiers the proposal would comply with the gross internal floor areas set out in the Nationally described space standards for 2 person 2 bedroom and 1 person 1 bedroom flats. The scheme also includes private outdoor amenity space to serve 4 of the units in the form of terraces. The other 2 units would have access to the communal rear amenity area. Although this is not fully compliant with the emerging external space policy in Publication Version of the Local Plan it is considered that the proposed development would be acceptable given its seafront location and the close proximity of open space, the beach and riverside walkway.

The impact on the residential amenities of neighbouring properties would be acceptable given the limited rearward projection of the extensions and the central position of the stairwell. The rearward existing extension at first floor level already projects beyond the existing dormer serving no 55 and the impact would not be materially worsened. No 59 has also been extended to the rear and is not considered to be materially impacted by the extension by reason of adverse overbearing impacts. There are no windows proposed in the side elevations of the of the extensions, other than those in the stairwell and those could be conditioned to be obscure glazed to prevent a material loss of privacy.

No car parking is being provided as part of the proposal, but the site is sustainably located within the town centre close to bus routes and within walking distance of the railway station. County highways have no objection to the proposal in terms of highway safety.

The site is located in an area at high risk of flooding. The application is accompanied by a Flood Risk Assessment (FRA) which the Environment Agency have advised is inadequate. Habitable rooms are not acceptable at basement or ground floor level. This increases the number of people at risk from flooding contrary to policy GEN10 of Arun District Local Plan, policy W DM2 of the emerging Local Plan and Section 9 of the Planning Practice Guidance to the National Planning Policy Framework (NPPF) for Flood Risk and Coastal Change National Planning Policy Framework.

The application is therefore recommended for refusal for the reasons given overleaf

HUMAN RIGHTS ACT

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), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of

property in accordance with the general interest and the recommendation for refusal is considered to be a proportionate response to the submitted application based on the considerations set out in this report.TY

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

REFUSE

- 1 The site lies within Flood Zone 3 defined by the Planning Practice Guidance as having a high probability of flooding where, notwithstanding the mitigating measures proposed, the risk to life and / or property, from tidal inundation would be unacceptable if the development were to be permitted.
The proposed development does not demonstrate that the occupants can remain safe for the development lifetime incorporating allowances for climate change. Whilst there are proposals for access and egress, there is insufficient flood risk mitigation up to the design flood level. Consequently, there would be an unacceptable risk to the health and safety of the occupants in a flood event.
This objection is in line with Section 9 of the Planning Practice Guidance to the National Planning Policy Framework (NPPF) for Flood Risk and Coastal Change and conflicts with policy GEN10 of Arun District Local Plan and policy 1 of the Littlehampton Neighbourhood Plan.
- 2 **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 with the proposal and discussing those with the Applicant. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. However, the Local Planning Authority has clearly set out, within its report, the steps necessary to remedy the harm identified within the reasons for refusal - which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.