

REPORT UPDATE

Application No: LU/56/17/PL

Reason for the Update / Changes

Reason for Update/Changes:

1] A petition was received with 59 signatories stating;

"I am signing up to demonstrate my support for new business' bringing employment and commerce to my local area of Littlehampton.

I am in favour of more jobs being brought to our local area and support a food delivery restaurant opening and bringing jobs to my local area and investing in my local economy.

I support a new business of a food delivery restaurant opening at 22 Beach Road, Littlehampton and agree this will bring re-generation to the proposed site and Littlehampton retail area."

2] Amended the wording of condition 5 to include the restriction of the storage of the motor vehicles to the area specified on drawing no. PL01 Rev A to the rear of the site.

Officers Comments:

1] Petition is noted.

2] None.

Note: The changes to the condition are shown under Officers Recommendation at the end of the attached report.

Notes: Changes to recommendations, conditions and / or reasons for refusal will always be reflected in the recommendation section of the attached Officer's Report/Recommendation.

LU/56/17/PL

Recommendation Report for Planning Permission

REF NO: LU/56/17/PL

LOCATION: 22 Beach Road & 3 Evans Gardens
Littlehampton

PROPOSAL: Change of use of ground floor from retail shop (A1 Shops) to hot food takeaway (A5 Hot Food Takeaway) & associated works.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

The application seeks permission for the

report

change of use of the ground floor shop (A1) to hot food takeaway (A5). The proposal makes provision for the storage of vehicles to the rear in a garage accessed via Evans Gardens and a new shop front.

SITE AREA

N/A

TOPOGRAPHY

Predominantly flat.

TREES

None affected by the development.

BOUNDARY TREATMENT

The primary elevation abuts the highway.

SITE CHARACTERISTICS

3 storey mid terrace property. Ground floor in retail use and residential accommodation above. The shop features a white painted wooden shop front with the first and second floor featuring red brick. The premises features a rear access which is accessed via Evans Gardens which is a small courtyard to the rear of the site which provides access to a number of other retail uses as well as a seating area associated with a restaurant.

The site is in Littlehampton town centre and forms part of the secondary retail frontage.

CHARACTER OF LOCALITY

Predominantly commercial at ground floor with residential accommodation at first and second floor level.

RELEVANT SITE HISTORY

None.

REPRESENTATIONS

Representations received:

Littlehampton Town Council

The Town Council's Planning and Transportation Committee considered this matter at its meeting on Monday 6th March 2017 and object to the application. The Committee welcomed the investment in the Town however, there were serious reservations about the impact of motor scooters on the residential amenity of the residents in Evans Gardens courtyard and the route that the mopeds undertaking deliveries would take on leaving the premises. Noting that mopeds would be stored in a unit at the rear of the premises in the Courtyard, Members recalled this was a well-used amenity space. Observing that the home delivery service would form a significant proportion of sales, Members considered that users' amenity would be disturbed by the constant coming and going of mopeds. It was therefore considered imperative that the mopeds be kept on the street in front of the premises in Beach Road during the hours of business. The Committee therefore objected to application on the grounds that it would have a detrimental impact on neighbouring amenity. Only if Members

were satisfied on this point, which could be addressed by condition, would the Committee consider lifting its objection. It was also reported that a planning notice was not on display in Evans Gardens and Members considered that this should be rectified as residents here would be directly affected by the proposals.

7 no. letters of objection (from 6 individuals):

- 1] Mopeds being operated within Evans Gardens would have an unacceptable impact upon residential amenity and would give rise to conflict between pedestrians using Evans Gardens and the vehicles.
- 2] Disruption will be caused to the delivery bay situated forward of the premises.
- 3] Too many takeaways in Littlehampton and this is a loss of a retail unit.
- 4] Late night opening would adversely impact upon the residential amenity of Beach Road.
- 5] Proposed development will block disabled access to opticians situated at 20 Beach Road. However, this matter has been raised with the agent who has provided an amended plan which relocates the units above head height to avoid conflict with the established disabled access.
- 6] Restrictive covenant is present within Evans Gardens restricting the storage of rubbish, building, materials, oil or petrol.

1 no. letter of support:

- Great location for such a use.
- To refuse would be contrary to GEN7 of the Arun District Local Plan and Policy 1 of the Littlehampton Neighbourhood Plan as development is sustainable.

Comments on Representations received:

In response to the comments from Littlehampton Town Council:

- Concerns regarding the disturbance that vehicular movements to and from Evans Gardens would have upon residential amenity are noted. However, it is considered that a suitable condition could be included to prevent mopeds from being operated within Evans Gardens and that delivery collections by drivers were only made from Beach Road. It is considered that this condition will protect the residential amenity of nearby occupiers and avoid conflict between pedestrians access the shops located within Evans Gardens and delivery vehicles.
- A site notice was affixed forward of the primary elevation as well as to the telephone pole next to the entrance into Evans Gardens and facing onto Arcade Road. A notice in this location was considered most appropriate as it would be clearly visible to anyone accessing Evans Gardens as well as people walking along Arcade Road.

In response to the 7 no. letters of objection (from 6 individuals):

- 1 - 4] Comments noted. These matters will be considered further in the conclusion to this report.
- 5] The alleyway to the rear of 20 Beach Road which also provides for the disabled access falls within the red edge, with the application form stating that the land is owned by the applicant. Therefore, any blocking of this means of access would likely be a private matter which falls outside of planning.
- 6] Covenants are not a material planning consideration and no weight can be given to this in the determination of the application. The enforcement of covenants is a private legal matter.

In response to the 1 no. letter of support:

- Comments noted. These matters will be considered further in the conclusion to this report.

CONSULTATIONS

Environmental Health
Economic Regeneration
WSCC Strategic Planning

Consultations responses received:

ECONOMIC DEVELOPMENT:

Whilst Economic Development would welcome a national chain to Littlehampton we do not consider this to be the correct place to run a delivery service from. Our concern would be around vehicle movement in Evans Courtyard. This is an area which is frequently used for small events which add to this end of the town centre. In addition there are retail units in the courtyard whose customers would have potential conflict with traffic.

If alternative arrangements could be made and enforced by condition for the delivery vehicles this proposal would be acceptable.

WSCC STRATEGIC DEVELOPMENT:

The proposal to change the use of the existing A1 retail shop into a hot food takeaway (A5) use has been considered by WSCC as the Local Highway Authority. No objection is raised to this proposal from a highway safety or capacity point of view.

The shop is vacant and the shop will be accessed on foot off Beach Road. There are pavements either side of the road linking to other areas of Littlehampton. Beach Road is located in the Town Centre and there are existing parking restrictions in the form of double yellow lines at the junctions with Beach Road and Arcade Road. Directly outside the shop is a designated goods vehicle loading bay, which serves the local shops and parking is available but restricted to 1 hour.

The rear courtyard known as Evans Gardens is privately owned and as such does not form part of the public highway network. There is a dropped kerb in place to provide access to vehicles wishing to access the rear of the property. If this is to be used for delivery motorbikes the access provision is acceptable to the front and rear of the shop.

WSCC are satisfied this proposal would not cause any highway safety or capacity issues and is within a sustainable town centre location. As such no objection is raised.

ENVIRONMENTAL HEALTH:

Comment received 30.03.2017

An Acoustic Report will be necessary in respect of delivery vehicles, particularly delivery mopeds; and plant, to be used in association with this premises in order to demonstrate that the proposed business will not cause noise nuisance to the nearest noise sensitive location.

Informative: I understand that the area known as Evans Gardens has small shops to which the public have access, as well as an al fresco eating area for Panama Joe's cafe. A Health & Safety Risk Assessment as detailed in The Management of Health & Safety at Work Regulations 1999, will be necessary to demonstrate how this area can be safely used as a through way for delivery mopeds associated with this proposed food outlet.

The premises will require Registration under the Food Safety Act 1990 and will need to comply

with the standards contained in the relevant Food Hygiene Regulations prior to becoming operational. The applicant is advised to contact The Food Safety Team at Environmental Health on Tel 01903 737755; E Mail Food.Safety@arun.gov.uk.

Comment received 11.04.2017

I can confirm that I have just been telephoned by David Pickford from Pegasus Group. We discussed the use of noisy delivery mopeds to the above proposed Pizza Take Away, whose operation might adversely affect the quiet enjoyment of this area. I would be obliged if you would add a condition to the Planning consent that such vehicles must be wheeled through Evans Gardens, not to be operated until outside the business and on the main Beach Road. No Health & Safety Risk Assessment will be required with this adjustment in place.

An Acoustic Report, as previously advised, will still be necessary, however, in respect of plant and machinery to be operated on site. Please would you provide the standard condition for this accordingly, together with the requirement that any such report must be acceptable to the Planning Department/EHD before building reconfiguration proceeds.

Comments on Consultation responses:

Comments noted.

POLICY CONTEXT

Designation applicable to site:

Within built area boundary

Building special character

DEVELOPMENT PLAN POLICIES

[Arun District Local Plan 2003:](#)

[AREA19](#)

[GEN7](#)

[GEN32](#)

[GEN34](#)

[DEV26](#)

[GEN22](#)

Primary Shopping Frontages

The Form of New Development

Noise Pollution

Air Pollution

Criteria for Retail Development

Buildings or Structures of Character

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

HER DM2 Locally Listed Buildings or Structures of Character

D DM1 Aspects of Form and Design Quality

D DM4 Extensions and Alterations to Existing Buildings (residential and non-residential)

QE DM1 Noise Pollution

QE DM3 Air Pollution

RET DM1 Retail Development

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 is taking place 10 April 2017 to 5pm on Tuesday 30 May 2017. 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.

Arun District Council's Development Plans:

Paragraph 215 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight. The weight afforded to the policies with Local Plan policies can be assessed according to their level of consistency of the various policies with the National Planning Policy Framework.

Paragraph 216 of the NPPF confirms that weight can be given to policies in emerging plans from the day of publication. The Council resolved that the policies and maps in the Publication Version of the Local Plan be used are material considerations in the determination of this planning application. The emerging Plan was submitted in January 2015 and the examination is currently suspended. The examination is due to re-commence in summer 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).

The Littlehampton Neighbourhood Plan has been made but there are considered to be no policies relevant to the determination 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 it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it have an adverse impact upon the established character of the surrounding area.

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

PRINCIPLE

The site is in the built area boundary where the principle of development is acceptable subject to accordance with relevant development plan policies. The site is in the principle shopping area as defined in the Local Plan 2003 and is in the secondary shopping frontage in the emerging Local Plan.

Paragraph 2.34 of the Local Plan identifies that this area of Littlehampton should serve a complementary function adding to services and facilities provided by the primary shopping centre. Policy RET DM1 of the emerging Local Plan seeks to prevent a concentration of non-retail uses to the detriment of the vitality of the town centre.

This section of Littlehampton town centre (excluding the application site) currently consists of approximately;

- 51% - A1 Uses (Shops)
- 16% - A2 Uses (Financial and professional services)
- 19% - A3/A5 Uses (Restaurants, Cafes and Take-away)
- 13% - Other Uses (Sui Generis & D1)

It is considered that the change of use from A1 to A5 will not undermine the vitality of the town centre and will serve a complimentary function to the primary shopping frontage.

The key policy considerations in the determination of this application are policies GEN7, GEN32 and GEN34 of the Local Plan; policy RET DM1 of the emerging Local Plan; and the NPPF.

DESIGN AND VISUAL AMENITY

The application proposes a new shop front which by virtue of its design is not considered to adversely impact upon the established character of the building or the wider locality. As such, the shop front accords with policy GEN7(ii) of the Local Plan.

The application also includes various alterations to the fenestration of 3 Evans Gardens to the rear as well as the provision of a flue affixed to the rear elevation of 22 Beach Road. The alterations to the fenestration is not considered to adversely impact upon the character of 3 Evans Gardens, whilst the flue by virtue of its location will not have a significant presence within the street scene and will not adversely impact upon the established character of the locality.

The application site is identified as a building of special character along with the majority of properties on Beach Road. It is considered that the proposed alterations to the shop front will not have an unacceptably adverse impact upon the appearance, character or special interest of this property. Whilst, the replacement shop front will be constructed from powder coated aluminium and will replace the existing wooden shop front. However, this change in materials and design is considered acceptable given the various materials and designs of shop fronts already present in neighbouring properties. Therefore, the proposed alterations to 22 Beach Road are considered to accord with policy GEN22 of the Arun District Local Plan.

RESIDENTIAL AMENITY

The use has the potential to harm the amenity of nearby residential properties by virtue of noise and disturbance. It is intended for the premises to operate between 11.30 and 23.00. These hours are considered to be acceptable given the town centre location and in keeping with opening hours elsewhere on Beach Road. Whilst it is acknowledged that residential properties and situated at first floor level in close proximity to the site a number of food outlets are already within the vicinity of the site and the proposal is unlikely to result in unacceptably adverse noise or disturbance beyond that which is already present in the locality.

It is noted that the A5 use will carry out deliveries via moped. The site is served by a one way street through the centre of town and these vehicles could be operated on the highway at anytime of day without restriction. It is considered that noise and disturbance associated with the use will not exceed that which could already be achieved in this area.

The storage of mopeds is intended to take place within Evans Gardens which is a privately owned courtyard which features a number of retail premises as well as an outdoor eating area associated with the A3 restaurant located on the corner of Arcade Road and Evans Gardens. The operation of the mopeds within Evans Gardens was identified as having the potential to adversely impact upon the residential amenity of nearby occupiers. It is considered that with suitably worded conditions (conditions 3, 4 & 5) the use of premises and the operation of vehicles within Evans Gardens can be adequately controlled to avoid unacceptably adverse harm to residential amenity. This has been considered by Environmental Health and has been deemed an acceptable measure to prevent unacceptably adverse harm to the residential amenity of nearby occupiers.

It has been identified by Environmental Health that an acoustic report will be required in relation to plant and machinery to be operated on site. This will be secured through condition.

HIGHWAY SAFETY

Concerns have been raised relating to vehicular movements to the rear of the site. Evans Gardens is privately owned and is not part of the highway. As identified above it is considered that the operation of mopeds within Evans Gardens would conflict with policy GEN7(vii) of the Local Plan. Therefore, condition 5 has been included requiring that mopeds are wheeled onto the highway before being operated.

WSCC Strategic Planning have been consulted in relation to this application and have stated that "access provision is acceptable to the front and rear of the shop". Therefore, no objections have been raised in relation to proposed use and the safe operation of the highway.

SUMMARY

It is considered that the proposal accords with relevant development plan policies and as such is recommended for approval subject to the below 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 for 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 no impacts have been identified upon any 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: Proposed Plans Inc Mechanical Spec - PL01 Rev A; and Proposed Elevations - PL02 Rev B.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy GEN7 of the Arun District Local Plan.

- 3 Before the development commences, the applicant shall submit a report, prepared in accordance with the provisions of BS4142 to predict noise levels generated by the machinery and plant to be operated on site at the nearest noise sensitive location.

Reason: To safeguard the amenities of nearby residents in accordance with Arun District Local Plan policies GEN7 and GEN32.

- 4 The use hereby approved and machinery and plant on site shall only be operated only between the hours of:-

11.00 - 23.00 Monday to Sunday (including Bank Holidays)

Reason: In the interests of residential amenity in accordance with policy GEN7 and GEN32 of the Arun District Local Plan.

- 5 No motor vehicles associated with the use hereby approved shall be operated within Evans Gardens and will be pushed by hand onto the highway before being operated. A maximum of 4 motor vehicles will be kept and stored at the site and this shall be in accordance with the details as specified on drawing no. PL01 Rev A to the rear of the site and accessed via Evans Gardens.

Reason: To safeguard the amenities of nearby residents in accordance with Arun District Local Plan policies GEN7 and GEN32.

- 6 Details for the storage of waste on the premises shall be submitted to and approved in writing by the Local Planning Authority prior to the business use hereby approved being operated.

Reason: To protect the amenities of nearby residents in accordance with Arun District Local Plan policy GEN7.

- 7 The extraction equipment installed at the site shall be regularly maintained to ensure its continued satisfactory operation and the cooking process shall cease to operate if at any time the extraction equipment ceases to function to the satisfaction of the Local Planning Authority.

Reason: That the use does not result in excessive cooking odours outside the premises and that the amenity of occupiers of nearby properties is protected in accordance with Arun District Local Plan policies GEN7, GEN34 and DEV26.

- 8 The drainage serving the kitchens 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. The applicant shall provide prior to the Local Planning Authority prior to the implementation of the approved use details of their proposed grease trap/separator in order to demonstrate design and installation will

be in compliance with BS EN 1825-1:2004, & BS EN 1825-2:2004

Reason: In order to safeguard the amenities of neighbouring properties, in accordance with policy GEN7 (iv) and (v) of the Arun District Local Plan.

- 9 INFORMATIVE: The premises will require Registration under the Food Safety Act 1990 and will need to comply with the standards contained in the relevant Food Hygiene Regulations prior to becoming operational. The applicant is advised to contact The Food Safety Team at Environmental Health on Tel 01903 737755 or via E-Mail at Food.Safety@arun.gov.uk.
- 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.