

Recommendation Report for Planning Permission

REF NO: LU/61/18/PL

LOCATION: 15a Surrey Street
Littlehampton
BN17 5AZ

PROPOSAL: Change of use from A1 (Shops) to use class A3 (Restaurant & Cafe) & A5 (Hot food takeaway) .

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application seeks permission for the change of use of the premises from A1 to A3/A5, selling Jamaican food with seating for up to 12 people being provided and the sale of some retail products.
TOPOGRAPHY	Predominantly flat.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	Premises is located adjacent to pavement
SITE CHARACTERISTICS	The site is occupied by a 3 storey terraced property which is part of a retail parade. The site is currently vacant, but was previously used as a use Class A3 restaurant use.
CHARACTER OF LOCALITY	The character of the locality is predominantly commercial with retail units located at ground floor and either commercial uses or residential above. These retail units fall within various A classes. Immediately adjacent to the site both units are in retail use.

RELEVANT SITE HISTORY

LU/154/01/	Change of use to take away and new extractor unit	ApproveConditionally 16-08-01
LU/330/15/PL	Change of use from A1 (Shops) to A1 (Shops)/A3 (Restaurants and Cafes).	ApproveConditionally 22-12-15

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Littlehampton Town Council

Support

2 Support-

- These premises have had a chequered past and I feel that the cuisine is new to Littlehampton and the diversity will be good for the town. The colour, tastes and spices of the dishes will bring people into the town as the nearest other Caribbean food is in Worthing, Brighton or Crawley

- A caribbean cafe restaurant would definitely add something to Littlehampton, and would certainly attract my custom, lover of good food, varied cuisines and inveterate diner-out that I am. What I overhear suggests it would be popular with a wide range people, too. I look forward to its opening.

COMMENTS ON REPRESENTATIONS RECEIVED:

Agreed

CONSULTATIONS

Environmental Health

CONSULTATION RESPONSES RECEIVED:

Environmental Health - No Objection

Environmental Health: I understand that Change of Use Class, A1 to A3, has been allowed in this case under the General Permitted Development Order, for an unlimited period of time and only insofar as no cooking or baking and only the reheating of frozen or small quantities of food takes place. The proposed use for the production/sale of Caribbean type foods has the potential to cause odour nuisance to the detriment of surrounding sensitive receptors.

I suggest that the new owner should be provided with a six month trial period to allow the effect of the proposed new use on any neighbouring residential/other units, to be assessed. Should any detriment result, then it may be necessary for means of mechanical ventilation together with odour abatement to be provided. Such a system would be required to vent at eaves level, or 1 metre above the level of any openable window. In this case then it would also be likely that an Acoustic Report would be required to detail the means by which this system will also protect neighbours from intrusive noise.

Deliveries: To be limited to 8:00 to 18:00 on any week day and 8:00 to 13:00 on any Saturday with no deliveries on any Sunday, Public or Bank Holiday.

Hours of Operation: To be limited to 8:30 to 18:00 hours Monday to Thursday: 8:30 to 20:00 hours on any Friday, or Saturday and 9:00 to 16.30 on any Sunday, Public or Bank Holiday.

COMMENTS ON CONSULTATION RESPONSES:

- comments noted. The requested conditions have been imposed.

POLICY CONTEXT

Designation applicable to site:

Within Built Up Area Boundary

Primary Shopping Frontage

Principal Shopping Area

DEVELOPMENT PLAN POLICES

[Arun District Local Plan \(2003\):](#)

GEN7

The Form of New Development

REPORT(ODB)

GEN34	Air Pollution
GEN32	Noise Pollution
DEV26	Criteria for Retail Development
AREA19	Primary Shopping Frontages

Publication Version of the Local Plan (October 2014):

RET DM1	Retail Development
QE DM1	Noise Pollution
QE DM3	Air Pollution
QE SP1	Quality of the Environment
D DM1	Aspects of Form and Design Quality

<u>Littlehampton Neighbourhood Plan 2014 Policy 1</u>	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 and is 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.

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. The examination was completed in September 2017.

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. 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.

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).

Policy1 & 2 of Littlehampton Neighbourhood Plan is considered relevant to consideration of this application.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to comply with relevant Development Plan policies in that 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 application site falls within the built up area boundary where the principle of development is acceptable subject to accordance with relevant development plan policies. The key policy consideration in the determination of this application is deemed to be GEN7 of the Arun District Local Plan. The application site falls within the principal shopping area and as such it is considered that policy AREA19 of the Arun District Local Plan is applicable to the determination of this application.

POLICY CONSIDERATIONS

AREA19

The application site falls within the Primary Retail Frontage and as such is required to be in accordance with policy AREA19 of the Arun District Local Plan.

Policy AREA19 requires the proposal to not create a concentration of non-retail uses to the detriment of the vitality of the town centre. Concentration is defined as two or more non retail uses. Having examined this end of Surrey Street and the top end of the High Street this is complied with. Further the use of the premises was previously approved for use in part for A3 purposes.

DESIGN AND VISUAL AMENITY

The proposal includes minimal alterations to the external appearance of the property. The key alteration will consist of the installation of a new powder coated aluminium shop front with relocation of the doorway. The proposal also includes the installation of a new smaller fascia sign. These alterations to the external appearance of the premises are not considered to have any adverse impact upon the character

or appearance of the existing property and as such are deemed to accord with policy GEN7(ii) of the Arun District Local Plan. The agent has advised there are no structural changes. All doors, windows, kitchen, bathroom etc are all in the same place with the same dimensions

No external alterations to the shop front or fenestration are proposed as part of this application and therefore the proposal is considered to be in accordance with AREA19(ii) of the Arun District Local Plan.

The proposed change of use from A1 to A3/A5 has the potential to impact upon the residential amenity of residents through the generation of odours/smells through the preparation of food at the site. Therefore, a condition has been imposed on the approval stating that no cooking or baking is to be carried out at the premises prior details of the required extraction equipment having been submit, approved and installed to the satisfaction of the Local Planning Authority. This will ensure that the proposed change of use is in compliance with policy AREA19 (iii) of the Arun District Local Plan.

Therefore, the proposed change of use from A1 to A3/53 is not deemed to conflict with policy AREA19 of the Arun District Local Plan.

RESIDENTIAL AMENITY

The proposed change of use is not considered to give rise to any unacceptable unneighbourly impacts.

The proposal has been considered by Environmental Health who have raised no objections in relation to the proposed equipment - conditions as requested have been included . Therefore, it is considered that the proposed use will not give rise to any unacceptably adverse odours or smells which will adversely impact upon the residential amenity of neighbours.

There are no concerns in relation to the disturbance of customers departing from the proposed restaurant late at night since immediately opposite the site is The George(Public House) as well as an A5 take away on this same parade of shops. Therefore, it is considered that the proposed use is in keeping with the established character of the area - similarly it is considered that the proposed use would not result in unacceptably adverse intensification or disturbance beyond that which could be expected in this locality.

Therefore, it is considered that the proposed change of use would accord with the limitations of policy GEN7(iv) of the Arun District Local Plan.

SUMMARY

The proposed development is deemed to accord 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 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

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 Deliveries by commercial vehicles shall only be made to or from the site between hours of 08:00 to 18:00 on any week day and 08:00 to 13:00 on any Saturday with no deliveries on any Sunday, Public or Bank Holiday. Monday to Friday/Saturday and at no time on Sundays, Bank or other Public Holidays without the prior written consent of the Local Planning Authority.

Reason: In the interests of amenity in accordance with Arun District Local Plan policies GEN7 and GEN32.
- 4 After 6 months of opening the applicant shall submit an assessment of the impact of the use on any neighbouring residential/other units, to the Local Planning Authority for consideration. If any detriment to air quality as a result of the restaurant use has resulted, then a means of mechanical ventilation together with odour abatement and an acoustic report should be submitted for approval and any equipment subsequently approved shall be installed within 2 months of the date of approval of the details.

Reason: To ensure that unsatisfactory cooking odours outside the premises are minimised in the interests of the amenity of occupiers of nearby properties in accordance with Arun District Local Plan policies GEN7, DEV26 and GEN34.
- 5 The premises shall only open for business between 08:30 to 22:00 hours Monday to Saturday and 9:00 to 16.30 on any Sunday, Public or Bank Holiday.

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

- 6 **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.