






From: Tim Rodway | Rodway Planning 
Sent: 23 October 2020 15:04
To: Tim Rodway | Rodway Planning 
Subject: Development Control Committee item LU/91/19/PL

Dear Councillors

Application reference: LU/91/19/PL

Site location: Various sites along Littlehampton Promenade, Littlehampton

Application description: Change of use of parts of seafront for temporary food & drink outlets & other seaside uses together with associated temporary/portable structures & equipment for use by businesses associated with those outlets

I write on behalf of my client, Harbour Park.

It is noted that the above planning application is scheduled to be reported back to the District Council's Development Control Committee on 28th October 2020, having been deferred at the meeting on 26th May 2020 due to Members concerns over a number of aspects of the planning proposals.

The planning application has been reduced to comprise more specific proposals for two sites, on which we now have the following further comments for your consideration:

Site B: Promenade adjacent to the Lighthouse

It is noted that the Littlehampton Regeneration Sub Committee (LRSC) have considered the proposed use of this site, and recommended to the Development Control Committee that the planning application be approved and that restrictions be attached to the operational licenses to ensure that Site B only provides facilities relating to recreation and entertainment with no food or drink.

This restriction is welcome to ensure diversity of offer, however the comment that *“Planning cannot impose conditions on the application to restrict the type of sales that it offers because there is no sound or robust planning reason for doing so. An Informative will be added to LU/91/19/PL to this end”* is contested. We do not agree with this statement.

Indeed, one only needs to look at the Use Classes Order to see that ‘Food and Drink’ uses have their own class (Class A3), as does retail (Class A1). Indeed, when considering a new use it is commonplace for planning conditions to be imposed stipulating what use class the approval is for (i.e. this planning permission permits the change of use of the premises to A1 use class only). Further, we are aware of instances where conditions have been applied which limit the specific products that a premises is able to sell within such a use class (i.e. only certain goods can be sold at garden centres).

Section 70(1)(a) of the Act enables the local planning authority in granting planning permission to impose *“such conditions as they think fit”*. Paragraph 55 of the National Planning Policy Framework makes clear that planning conditions should satisfy the following tests: 1.necessary; 2.relevant to planning; 3.relevant to the development to be permitted; 4.enforceable; 5.precise; and 6.reasonable in all other respects. These are referred to as the ‘6 tests’, and they need to be satisfied for each condition which an authority intends to apply.

Therefore, we contend that with respect to Site B, and given the conclusions of LRSC, it would be entirely appropriate and reasonable to impose a condition specifying that any kiosk sited in this location should only be able to provide facilities relating to recreation and entertainment, and should not sell any food or drink items. In our professional opinion, such a condition would meet the 6 tests set out in planning legislation. We therefore strongly encourage Councillors to impose a suitably worded condition, ensuring future changes are referred back to elected members, rather than rely on an informative and the licensing process to control the specifics of this use.

Site D: Banjo Road

Our client is pleased that an appropriate proportion of the existing Banjo Road car park is to be retained for coach parking.

However, and having viewed the indicative plans that accompany this application, it is evident that the unrestricted number of kiosks proposed for this site would cumulatively amount to a ‘food court’ with seating. It must be assumed that the kiosks are intended to be in situ for in excess of 28 days (otherwise planning permission would not be required), and as such there is a degree of permanency about this provision.

Given the type and extent of facilities that are proposed for this site, it would be expected that public conveniences also be provided. It is noted that the closest toilets to this site are adjacent to the Windmill, circa 300 metres away; whilst other conveniences adjacent to the Norfolk Garden tennis courts are almost 600 metres from Site D. We contend that these are both too distant from Site D to be considered acceptable, and as such the best solution would be to insist that temporary public conveniences are supplied when Banjo Road is in use by kiosks. In this respect, it is noted that in cases where new food and drink premises are being provided (for instance, via the change of use of a building), it would be expected that the toilet facilities would be provided within the building to serve customers and staff – we consider that a consistent approach should be taken with respect to the proposed use of Banjo Road (Site D).

If Members wish to discuss this matter, then please do not hesitate to contact either myself or our client.

Yours sincerely,

TIM RODWAY
DIRECTOR [REDACTED]



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