

Recommendation Report for Planning Permission

REF NO: LU/99/26/PL

LOCATION: 8-10 Clifton Road
Littlehampton
BN17 5AS

PROPOSAL: New fixed external seating. This application is in CIL Zone 4 (Zero Rated) as other development.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	This application seeks permission for fixed external seating to the west of the premises, fronting Clifton Road.
SITE CHARACTERISTICS	The site is a three storey building on the corner of Arcade Road and Clifton Road. The ground floor is in use as a public house.
CHARACTER OF LOCALITY	The site is located within Littlehampton town centre. Arcade Road has a range of commercial uses at ground floor level, with residential uses above. The area to the immediate south is largely residential.

RELEVANT SITE HISTORY

LU/264/18/PL	Change of use from a function room on first floor to separate office accommodation.	ApproveConditionally 14-01-19
LU/66/98	Extension to existing snooker club at ground and first floor level	ApproveConditionally 10-06-98

Planning history noted.

REPRESENTATIONS

Littlehampton Town Council - No objection.

No responses were received from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

ENVIRONMENTAL HEALTH - No objection.

- No objection subject to the opening hours proposed.

WEST SUSSEX COUNTY COUNCIL

- The revised plan indicates that a minimum footway depth of 1.8m would be retained to the west of the proposed fixed external seating. The DfT's Inclusive Mobility (December 2021) sets out an ideal minimum footway width of 2m, however this can be reduced to 1.5m if necessary, due to physical restraints.

- A pavement licence would not be considered appropriate for this application due to the proposed fixed nature of the seating.

- For the fixed seating to be acceptable, the highways rights would need to be formally removed by way of a Stopping Up Order. This is controlled by Section 247 of Town and Country Planning Act and would be subject to a separate process administered by the Department for Transport's National Casework Team. The Highway Authority along with other statutory undertakers and interested parties would be consultees in this process.

- There is also no guarantee that this process would be successful. The comments made here would not constitute the Highway Authority's formal position regarding any future Stopping Up of the Public Highway.

- The Highway Authority 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 116), and that there are no transport grounds to resist the proposal.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted. An informative has been added highlighting the need for a Stopping Up Order.

POLICY CONTEXT

Designation applicable to site:

Built Up Area Boundary

Economic Growth Area

2km Buffer of the Climping Beach SSSI

Flood Zone 3

Surface Water Flood risk (1:1000)

Highway boundary

DEVELOPMENT PLAN POLICIES

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

DDM1	D DM1 Aspects of form and design quality
QESP1	QE SP1 Quality of the Environment
EMPDM1	EMP DM1 Employment Land: Development Management
TSP1	T SP1 Transport and Development
WDM2	W DM2 Flood Risk

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, The South Inshore & South Offshore Marine Plan 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.

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 complies with relevant Development Plan policies in that the proposal would not result in unacceptable impacts on the residential amenity of neighbouring occupiers and is acceptable in terms of its design and appearance.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that

(2) in dealing with an application for planning permission the authority shall have regard to -

- (a) the provisions of the development plan, so far as material to the application,
- (aza) a post examination draft neighbourhood development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

OTHER MATERIAL CONSIDERATIONS

There are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS**PRINCIPLE**

The application seeks the addition of fixed external seating associated with an existing public house. The proposal is acceptable in principle subject to compliance with the relevant development plan policies.

DESIGN AND VISUAL AMENITY

The application proposes the installation of five fixed tables with benches at either side. The proposed benches would have a narrow width of approx. 0.85m. They would be closely associated with the existing building, and would be in keeping with the use of the property as a public house.

The proposals would not detrimentally impact on the character or visual amenity of the locality, and are in

accordance with Arun Local Plan policy D DM1.

NEIGHBOURING RESIDENTIAL AMENITY

The proposed seating would encourage customers to gather outside of the premises, and would increase the noise generated by the existing use. The application states that the outdoor seating would be made unavailable for use by customers after 21:00. The Council's Environmental Health team have been consulted on the proposals, and have concluded that the proposals would not result in unacceptable noise impacts on neighbouring residents, provided that this limit is observed. A condition has been attached requiring the seating to be closed for public use after 21:00.

Whilst the installation of outdoor seating would result in some increase in noise within the proposed hours of use, provided that the seating is not used after 21.00, this would not result in harm to the residential amenity of neighbouring occupiers, in accordance with ALP policy QE SP1.

TRANSPORT AND HIGHWAYS

The proposal is for the positioning of permanent fixed seating on the pavement on Clifton Road. The seating is narrow in width and would project outwards from the building to the same extent as the small walled front gardens further along Clifton Road.

WSCC Highways have been consulted on the proposals and have noted that a Stopping Up Order would be required. The grant of planning permission does not imply that the positioning of seating on the highway would be found to be acceptable as part of the Stopping Up Order process, which is governed by separate legislation. Their comments note that there are no transport grounds to resist the proposal from a planning perspective. The proposals are acceptable in accordance with ALP policy T SP1 and the NPPF.

FLOOD RISK

The site is located in Flood Zone 3, and is therefore at high risk of flooding from rivers and sea. The site is also at risk of surface water flooding (1:1000-year event). The proposals are for external seating associated with an existing commercial use, and would not increase the vulnerability of the site as a whole. The proposals would not increase flood risk on site or elsewhere, and are in accordance with ALP policy W DM2 and the NPPF.

SUMMARY

The proposal complies with the relevant development plan policies and is recommended for approval subject to 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

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.

CIL DETAILS

This application is not CIL liable.

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:

- Location and Block Plans 260033/03.
- Proposed Floor Plan and Elevations 26033/02 rev A.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Arun Local Plan policy D DM1.

- 3 The proposed external seating shall not be used between the hours of 21:00 and 07:00 on any calendar day.

Reason: In the interests of the residential amenity of the locality and to minimise disturbance arising from the activity on the site in accordance with Arun Local Plan policy QE SP1.

- 4 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the NPPF.

- 5 **INFORMATIVE:** The applicant is advised that the existing public highway to be incorporated into the development must be the subject of a Stopping Up Order. This process must be successfully completed prior to any highway land being enclosed within the development.

The applicant should contact the Department for Transport's National Transport Casework Team in order to commence this process:

National Transport Casework Team
Tyneside House

Skinnerburn Road
Newcastle Business Park
Newcastle upon Tyne
NE4 7AR

<https://www.gov.uk/government/publications/stopping-up-and-diversion-of-highways>

- 6 INFORMATIVE: The granting of this planning permission does not in any way indemnify against statutory nuisance action being taken should substantiated complaints within the remit of the Environmental Protection Act 1990 be received.

For further information, please contact the Environmental Health Team:

pollution@arun.gov.uk

01903 737555

<https://www.gov.uk/guidance/statutory-nuisances-how-councils-deal-with-complaints>