

Recommendation Report for Planning Permission

REF NO: LY/4/22/PL

LOCATION: Crossbush Service Station
Lyminster Road
Lyminster
BN17 7QQ

PROPOSAL: Variation of conditions following LY/15/21/PL relating to conditions 2-approved plans, 6-external lighting and 10 arboricultural survey.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

The application is for a variation of conditions pursuant to planning permission Ref. LY/15/21/PL which was granted on 24th November 2021. The proposal has amended the permission to accommodate the subsequent A27 Arundel Bypass Development Consent Order proposals.

The proposed development is very similar to the approved scheme and relates to the erection of a drive-thru coffee shop measuring 31 sqm gross internal area (GIA). The amendments proposed in this application include widening the landscaping area to the north-east to accommodate the proposed highway improvements and repositioning the drive-thru coffee shop building and the compound area. The landscape area now has a width of 3.5m. The compound is located 16m to the north and the drive-thru 7m to the south.

The proposal seeks to amend Condition 2 (plans) Condition 6 (lighting) and condition 10 (arboricultural report) of planning permission LY/15/21/PL.

Condition 2 of planning permission LY/15/21/PL states
The development hereby approved shall be carried out in accordance with the following approved plans:

- Proposed Building Elevations (201115 - PLNG7 (B))
- Proposed Site Elevations (201115 - PLNG5(A) - Sheet 1)
- Proposed Site Elevations (201115 - PLNG5(A) - Sheet 2)
- Proposed Site Layout - 200 scale (201115 - PLNG4 - C)
- Proposed Site Layout - 100 scale (201115 - PLNG3 - B)

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policies D SP1, D DM1, LAN DM1 and QE SP1 of the Arun Local Plan.

The proposed variation to Condition 2 is sought:

The development hereby approved shall be carried out in accordance with the following approved plans:

- Proposed Site Layout - 100 Scale (Ref. PLNG3 Rev. C)
- Proposed Site Layout - 200 Scale (Ref. PLNG4 Rev. D)
- Proposed Site Elevations - Sheet 1 (Ref. PLNG5 Rev. B)
- Proposed Site Elevations - Sheet 2 (Ref. PLNG5 Rev. B)
- Proposed Building Elevations (Ref. PLNG7 Rev. B)

Condition 6 of planning permission LY/15/21/PL states
External lighting in association with this development shall comply with the Proposed Lighting Plan and Lighting Assessment (prepared by The Graham White Lighting Consultancy, dated 16/08/2021).

Reason: To control the impact of external lighting on the visual amenity and landscape setting, wildlife, local residential amenity, and the local environment in accordance with Arun Local Plan policies QE SP1, QE DM2, D DM1, LAN DM1 and ENV DM5.

The following variation is sought:
External lighting in association with this development shall comply with the Proposed Lighting Plan and Lighting Assessment (prepared by The Graham White Lighting Consultancy, dated 19th April 2022).

Since being validated the description of the application has been clarified to include additional reference to condition 10. The amended tree report was submitted with the original application so the details were included in the submitted application, but not referenced in the description.

Condition 10 of planning permission LY/15/21/PL states
All activity at the site is to be carried out in strict accordance with:

Arboricultural Survey (BS5837:2012), DEP Landscape Architecture Ltd., August 2021.

The following variation is sought
All activity at the site is to be carried out in strict accordance with:

Arboricultural Survey (BS5837:2012), DEP Landscape Architecture Ltd., April 2022.

TOPOGRAPHY

Predominantly flat. Land slopes down to west.

TREES

Site is occupied by group of established, semi-mature, native species trees.

BOUNDARY TREATMENT

Open/trees/vegetation.

SITE CHARACTERISTICS

Site consists of area of sloped land to the east of Crossbush

CHARACTER OF LOCALITY

Service Station (and adjacent to highway land and A284 road to the west). The site is currently occupied by grass and a group of trees.

Semi-rural. To the west of the site is Crossbush Service Station (which includes BP petrol garage, McDonalds Restaurant and Days Inn Hotel). To the east is the strategic road network including A284 Lyminster Road and Crossbush Roundabout to the north. On all other sides of service station is open countryside. South Downs National Park and AONB just to the north of Crossbush Roundabout.

RELEVANT SITE HISTORY

LY/15/21/PL	Erection of a drive-thru coffee shop (Use Class E) with associated infrastructure. This application is in CIL Zone 3 (zero rated) as other development. This application is a Departure from the Development Plan.	ApproveConditionally 24-11-21
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REPRESENTATIONS

None

COMMENTS ON REPRESENTATIONS RECEIVED:

None

CONSULTATIONS**CONSULTATION RESPONSES RECEIVED:**

County Highways - No Objection

National Highways - No Objection

- It is essential that the applicant continues to keep in close contact with our Bypass team to ensure that they design and co-ordinate their respective works to avoid any clashes.

- At this time we are concerned that the proposed arrangement creates a pinch point between the Costa development kerb line and the retaining wall.

Environmental Health - No Objection

COMMENTS ON CONSULTATION RESPONSES:

- comments noted

POLICY CONTEXT

Designation applicable to site:

Outside Built-Up Area Boundary
 Countryside
 Settlement Gap
 Arundel Park SSSI 2km
 Area of Special Control - adverts
 A27 Bypass 200m Buffer
 CIL Zone 3

DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

DDM1	D DM1 Aspects of form and design quality
DSP1	D SP1 Design
LANDM1	LAN DM1 Protection of landscape character
TSP1	T SP1 Transport and Development
TDM1	T DM1 Sustainable Travel and Public Rights of Way
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
QEDM2	QE DM2 Light pollution
QESP1	QE SP1 Quality of the Environment

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD11	Arun Parking Standards 2020
SPD13	Arun District Design Guide (SPD) January 2021

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.

The draft Crossbush and Lyminster Neighbourhood Plan has reached Reg.16 so the emerging policies contained within it hold very limited weight and have been considered in the determination of this current 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 there would be no

adverse impact on visual amenity or highway safety.

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

It is considered that there are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

PRINCIPLE OF DEVELOPMENT:

The principle of the development of a drive - thru in this location has been agreed. It is only the issue relating to the amended plans in respect of changes to the site layout and lighting which can be considered under this application. Countryside and Gap location, drainage, employment, retail impact, refuse collection and impact on residential amenity are not altered or affected and cannot be considered again as part of this proposal.

VISUAL AND LANDSCAPE IMPACT:

The site is located within the Crossbush Service Station within the countryside and in a designated Settlement Gap, with the South Downs National Park (SDNP) and Area of Outstanding Natural Beauty (AONB) lying nearby to the north. The immediate area is built up with the surrounding area rural in nature. The eastern aspect is bound by the A284 Lyminster Road whilst the other boundaries are adjacent to open countryside. This development proposal remains located to the eastern part of the existing service station.

The proposed development remains a small-scale (single storey) addition and would remain physically contained within an existing commercial site, and as such itself would not result in visual incursion into the open countryside nor harm to the landscape setting and views across the countryside. The proposed kiosk building's form, design and materials are unaltered by the proposal and would be appropriate for its function and the associated facilities and infrastructure would be suitable within the context of the service station site. The relatively minor change in the position of the buildings within the site has no visual detriment.

The existing service station site benefits from a shelter belt of semi-mature trees along the eastern and northern boundaries. This provides visual screening from views from the east along Lyminster Road. Also, to some degree, from views from the north and SDNP, although the site is located lower down within a dip in the land so it is likely still visible in elevated positions from the SDNP. However, from those viewpoints it would be viewed in the overall context of other surrounding development such as strategic road infrastructure etc. which lessens its impact and the change to the position of the buildings does not affect its prominence within the complex of existing structures. The revised position of the building would still be viewed against the backdrop of the car wash building to the west.

In order to accommodate the new drive-thru facility on this land where this screening currently exists, the

removal of approximately 60% of this existing tree group (G1) which resulted in a gap in the existing screening was agreed under LY/15/21/PL. This has increased to 70% in this application. A condition to ensure a Landscape Scheme is implemented and planting replaced within 12 months of completion of any planting which is failing has been imposed and would be unaltered.

Policy QE DM2 requires that proposals which include outdoor lighting must be accompanied by a lighting scheme and that there should be no adverse impacts on the wider landscape, particularly with regard the SDNP International Dark Sky Reserve designation. A revised Lighting Assessment Site Plan has been submitted showing the existing and proposed lighting; the proposed lighting still consists of 6 illuminated bollards along the drive-thru access road but previously 6 new area lighting mounted at height of 6m were approved and this has been amended to 5 no 6m high and 2 no 5m high lights. Given the existing lighting in this context of the service station and adjacent strategic road network, the proposed lighting would be acceptable in terms of its impact on the landscape setting and SDNP Dark Skies designation.

Subject to the previously imposed planning conditions, to secure a Landscape Plan and View Impact Assessment and the lighting details as per the submitted Lighting Plan, the proposals would have an acceptable impact on the visual amenity of the area, character of the countryside, views including from the SDNP and the landscape setting, in accordance with the NPPF, ALP policies D SP1, D DM1, LAN DM1 and QE SP1 and the ADC Design Guide SPD.

HIGHWAYS IMPACT:

Access to the site and car and cycle parking provision are not altered from the original approval. The proposals would still utilise the existing site access for the service station, off the Lyminster Road (A284). Staff and customer car parking would be provided within part of the wider service station site. No cycle storage provision has been proposed as part of the application and these levels of provision are unaltered in the proposal.

The Local Highways Authority (LHA), WSCC, have raised no objection to the application. National Highways (formerly Highways England) were also consulted on the proposals in respect of the impact on the strategic road network (SRN) and A27 Bypass project. They have commented that they are concerned with proposals that have the potential to impact on the safe and efficient operation of the SRN, in this case, particularly within the vicinity of the A27. Whilst they have concluded that they have no objection to either variation it is essential that the applicant and their team continue to keep in close contact with the Bypass team to ensure that they design and co-ordinate their respective works to avoid any clashes. At this time, they are concerned that the proposed arrangement creates a pinch point between the Costa development kerb line and their retaining wall in this location. The construction of the retaining wall becomes significantly more complex as a result and could impact upon both schemes. In addition, they are currently required to divert the 11kV cable which runs underneath the new development. They anticipate in constructing the proposed development the applicant would also need to divert due to the shallow depth of the service. It is unclear whether the applicant is aware of this or if they have engaged with the requisite utility provider. It is also unclear as to what requirements, if any, the new development would have in terms of provision of other services (gas, water, foul etc) and the associated citing and whether these would have a further impact on their new retaining structure. It is hoped that the applicant and their team will work closely with National Highways.

In conclusion, the changes to the layout proposed do not alter the impact on the operation and safety of the highways network. The proposals accord with the NPPF, policies T SP1 and T DM1 of the ALP, policies GA3 and EE5 of the draft C&LNP.

TREES:

ALP policy ENV DM4 seeks to protect trees with TPOs, identified as Ancient Woodland, in Conservation Areas, or that contribute to local amenity. Emerging policy EH4 of the draft C&LNP seeks to resist development that damages or results in the loss of or adverse impacts on trees or hedgerows of arboricultural, amenity or historic value or loss of hedgerows unless the need for, and benefits of, development in that location clearly outweigh the loss. It also states development proposals where appropriate should seek to retain wherever possible trees of good arboricultural and amenity value and hedgerows. It also states that Proposals which affect sites with existing trees or hedgerows should be accompanied by a survey that establishes the health and longevity of any affected trees or hedgerows and a management plan to demonstrate how they will be so maintained.

The application is accompanied by a full updated Arboricultural Report including Tree Survey, Tree Protection Plan and Method Statement. There is one established group of trees (G1) that will be affected by these proposals. This is a relatively young and dense linear group of native species, which provides visual screening and pollution mitigation. Approximately 60% of this existing tree group G1 were previously agreed to be removed to accommodate the proposals on this land and this has now increased to 70%. Replacement planting proposals will go some way to compensate but there will be a net loss of vegetation and biodiversity at what is a very busy, strategic road intersection. The proposal would have a negative impact on the local landscape and environmental conditions (loss of visual screening and air/noise pollution) at this location. This loss was previously weighed against the economic advantages the scheme offered locally, from what is already an established commercial site and was found acceptable. The additional 10% loss of trees would not materially alter these conclusions. The previously approved scheme included a condition to ensure timely implementation of an approved soft landscape scheme. It also included a condition to secure protective fencing is inspected once installed and deemed 'fit for purpose', and that the works are to be undertaken in strict accordance with the Arboricultural Report submitted. This condition is being varied as a consequence since the Report has now been updated.

In conclusion, although the proposals would result in the loss of semi-mature native trees of some amenity value, 30% of the tree group would be retained, replacement tree planting and appropriate landscaping are conditioned, and the scheme offers economic and social benefits. When weighed in the planning balance, the loss of these trees, while regrettable, and in conflict with ALP policy ENV DM4 and C&LNP emerging policy EH4, is outweighed by the other material considerations and is acceptable overall. In addition, the depth of the landscaping strip has increased to allow for more landscaping within the scheme.

ECOLOGY:

ALP policy ENV DM5 states development shall seek to achieve a net gain in biodiversity and protect existing habitats on site.

Emerging policy EH4 of the C&LNP states "Development proposals, where appropriate, must be designed to incorporate biodiversity within and around developments and enhance ecological networks.."

An Extended Phase 1 Habitat Survey was submitted with the original application. The biodiversity enhancements recommended within the Extended Phase 1 Habitat Survey (dated July 2021) and shown in the Landscape Management Plan (2021) were conditioned to secure these enhancements. The proposal remains compliant with policy ENV DM5 of the ALP and emerging policy EH4 of the draft C&LNP. The changes to the lighting proposed would not materially alter the impact on wildlife. Although an additional lighting column is being added, one of the approved 6m lighting columns will be replaced by a 5m support.

SUMMARY:

The layout and lighting changes proposed are minor alterations to the original approval and have no materially adverse impact on visual amenity, highway safety, ecology or trees. The application is recommended for approval, subject to the following conditions and informatives.

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.

CIL DETAILS

This application is CIL Liabe therefore developer contributions towards infrastructure will be required (dependant on any exemptions or relief that may apply)

RECOMMENDATION

APPROVE CONDITIONALLY

1 Condition 2 imposed under LY/15/21/PL is amended to read:

The development hereby approved shall be carried out in accordance with the following approved plans

Proposed Site Layout - 100 Scale (Ref. PLNG3 Rev. C)

Proposed Site Layout - 200 Scale (Ref. PLNG4 Rev. D)

Proposed Site Elevations - Sheet 1 (Ref. PLNG5 Rev. B)

Proposed Site Elevations - Sheet 2 (Ref. PLNG5 Rev. B)

Proposed Building Elevations (Ref. PLNG7 Rev. B)

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

- 2 Condition 6 imposed under LY/15/21/PL is amended to read
External lighting in association with this development shall comply with the Proposed Lighting Plan and Lighting Assessment (prepared by The Graham White Lighting Consultancy, dated 19th April 2022).

Reason: To control the impact of external lighting on the visual amenity and landscape setting, wildlife, local residential amenity, and the local environment in accordance with Arun Local Plan policies QE SP1, QE DM2, D DM1, LAN DM1 and ENV DM5.

- 3 Condition 10 imposed under LY/15/21/PL is amended to read
All activity at the site is to be carried out in strict accordance with:

Arboricultural Survey (BS5837:2012), DEP Landscape Architecture Ltd., April 2022.

Reason: To comply with BS5837 and to ensure that retained trees are afforded due respect and appropriate levels of protection such that their ongoing health and vitality is not compromised, and they can continue to enhance the landscape and amenity of the area, in accordance with policies D DM1 and ENV DM4 of the Arun Local Plan.

- 4 INFORMATIVE: This permission relates to the variation of conditions 2, 6 and 10 of planning permission LY/15/21/PL only. The applicant is reminded that the other planning conditions attached to the original planning permission number LY/15/21/PL remain in force and must be complied with.

- 5 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.