

Our ref. : AB1865/LPA180619

Planning Services
Arun District Council
Civic Centre
Littlehampton
West Sussex
BN17 5LF

18th June 2019

Dear Sir/Madam,

**SECTION 73 APPLICATION TO VARY CONDITION IMPOSED UPON PLANNING PERMISSION REF. R/34/19/PL
4 BROADMARK PARADE, BROADMARK LANE, RUSTINGTON, BN16 2NE**

Please find enclosed an application under Section 73 of the Town and Country Planning Act 1990 (as amended) being submitted to Arun District Council (the LPA) relating to the ground floor commercial premises at 4 Broadmark Parade, Broadmark Lane, Rustington, BN16 2NE.

This Section 73 application comprises the following documentation, and is being submitted electronically via the Planning Portal;

- Completed application forms and ownership certificates
- Completed Community Infrastructure Levy (CIL) form.
- This covering letter prepared by Beamish Planning Consultancy, incorporating a supporting planning statement.
- Decision notice relating to planning application ref. R/34/19/PL, issued on 7th June 2019.
- Delivery and Servicing Plan (dated February 2019) prepared by mode transport planning.
- 1:1250 scale OS plan with the application site outlined in red.

Payment of the statutory application fee of £234 has been made electronically when submitting this application via the Planning Portal.

Details of proposed variation

In February 2019, this Practice submitted a planning application (ref. R/34/19/PL, the Case Officer for which was Mr. Andrew Wood) to the LPA in respect of site at 4 Broadmark Parade, Broadmark Lane, Rustington, proposing the change of use of this vacant, former A1 (shop) ground floor premises to a mixed A3/A5 (restaurant and hot food takeaway) use, incorporating the erection of a single storey rear extension, replacement shopfront, and associated plant and extraction equipment.

When the Officer committee report in respect of this planning application was published as part of the agenda for the Development Control Committee meeting of 5th June 2019, it recommended the imposition of a condition which solely related to the opening hours of the premises and the operation of the associated plant.

However, as part of an addendum report circulated on the date of the committee meeting, the wording of the condition was changed so that deliveries/servicing hours would also be restricted to align with the opening hours of the premises and the operation of the associated plant.

Consequently, following the committee resolution to approve this planning application, on 7th June 2019 the relevant decision notice was issued granting planning permission, with condition (3) stating;

'The use hereby approved including deliveries, retail unit opening hours, machinery operations and ventilation associated with the use shall only be between the hours of 10.30am to 11pm Monday to Sunday.'

Unfortunately, the company who undertakes deliveries for the proposed operator does not currently have a vehicle at its disposal which could provide deliveries to the site utilising the service road and associated area to the rear of the premises. This is not the case for refuse and recycling collection removal, which can utilise the service road and associated area to the rear of the premises.

As paragraph 3.1.1 of the Delivery and Servicing Plan (D&SP) prepared by mode transport planning clarifies (with that D&SP comprising both part of this Section 73 application and the original planning application), deliveries to the unit, which are expected to occur approximately 3 times per week, would be undertaken from the parking spaces to the front of the retail frontage to the north of The Street (to the west of the application premises), with items transported to the premises via the signalised pedestrian crossing over Ash Lane. The main carriageways within the immediate area comprise double yellow lines, and therefore delivery vehicles (and any other vehicles) cannot park on those carriageways at any time.

As the parking spaces are subject to restrictions between 08.00 to 18.00 hours on Mondays to Saturdays, and during those times the majority of spaces are occupied by cars belonging to customers of the numerous commercial premises, the most practical time for deliveries to take place would either be before 08.00 or after 18.00, i.e. outside of the operational times of the parking restrictions.

In reality, such deliveries are very rarely made after 18.00, and therefore by way of this way we request that condition (3) be varied to enable deliveries and servicing to take place between the hours of 06.30 to 20.00 (to cover the occasional instance when a delivery has to be made in the early evening).

We would suggest that the easiest way this could be secured would be by way of condition (3), as originally imposed, to be varied to not include deliveries and servicing, and an additional condition be imposed relating solely to deliveries and servicing, and restricting such activity to the hours of 06.00 to 20.00 Monday to Sunday.

Assessment of proposed variation

The reason for the imposition of condition (3) was ;

'To protect the amenities of occupiers of adjoining properties in accordance with Arun Local Plan policies D DM1, QE DM1 and QE DM3.'

In appraising whether the proposed variation would adversely affect the amenities of nearby residential properties, it is important to emphasise that condition (3) as imposed allows deliveries and servicing to take place until 23.00 everyday.

Conversely, the suggested variation would ensure that deliveries and servicing does not take place after 20.00, thereby significantly reducing any potential adverse impact upon residential amenity in the evenings. It is acknowledged that the proposed variation would allow deliveries and servicing to take place from 06.30 everyday, but given both the application premises and its surroundings fall within a designated 'Local Service Centre', as well as fronting the B2140 road, a delivery being made to the premises typically 3 times a week between the hours of 06.30 and 08.00 would not result in any material harm, given the existing level of general activity occurring at those times.

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Furthermore, when the LPA granted planning permission (ref. R/303/15/PL) for the hot food takeaway (A5) use of no. 9 Broadmark Parade in April 2016, no restrictions were imposed upon the hours of deliveries and servicing, with condition (3) imposed upon the granting of that planning permission solely relating to the trading hours of those premises. Accordingly, the A5 operator of no. 9 could undertake deliveries and servicing at any time of the day or night.

Conclusion

The proposed variation of condition (3) imposed upon the granting of planning permission ref. R/34/19/PL to enable deliveries and servicing to take place between the hours of 06.00 to 20.00 everyday would not, when appraised having raised to both the currently permitted hours and the existing levels of activity within the immediate surroundings, result in any material harm to the amenities of the occupiers of any residential properties nearby.

Consequently, the proposed variation would comply with Local Plan policies D DM1, QE DM1 and QE DM3, as well as national planning guidance as set out in the NPPF and NPPG, and condition (3) should be varied as suggested within this application.

We look forward to corresponding with the Case Officer to whom this Section 73 application is allocated in the coming weeks, but in the meantime should any further information or clarification be required please do not hesitate to contact me.

Yours faithfully,



Adam Beamish
BA (Hons), DIP TRP, MRTPI

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