

Recommendation Report for Planning Permission

REF NO: R/146/21/PL

LOCATION: 106 The Street
Rustington
BN16 3NJ

PROPOSAL: External placement of tables and chairs to be used in conjunction with the existing use of the building. This application may affect the setting of listed buildings, may affect the character & appearance of the Rustington Conservation Area & is in CIL Zone 4 (Zero Rated) as other development.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The external placement of tables and chairs to be used in conjunction with the use of the building, approved under R/201/19/PL. This is proposed to allow for expanded food provision to the outside seating area. It is proposed to have up to 14 tables located outside of the premises. The application site is private land and not highway land. Under Class BB in Part 4 of the GDPO establishments are able to provide moveable structures in their curtilage without the need for planning permission up to 1 January 2022.
SITE CHARACTERISTICS	Drinking establishment located in Rustington Village Centre (formerly A4 use). It is in the defined Town Centre area forms part of the secondary retail frontage.
CHARACTER OF LOCALITY	Predominantly retail with business and residential uses above.

RELEVANT SITE HISTORY

r/201/19/pl	Convert existing retail shop (A1 Retail) into a micropub (A4 Drinking Establishments).	ApproveConditionally 21-11-19
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Approved use of the premises under R/201/19/PL.

REPRESENTATIONS

Rustington Parish Council - No objection.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

West Sussex County Council - The location for the tables and chairs will not be on land that is maintained at public expense. The placement will not interfere with the free flow of pedestrians on the maintained footway. Nor will the placement of the tables and chairs interfere with vehicular visibility on The Street or Woodlands Avenue.

ADC Environmental Health - No adverse comments. Outdoor sitting is likely to create additional noise, potentially impacting the surrounding area if not adequately controlled. The applicant needs to ensure reasonable measures are in place to preserve the peace/tranquillity of the areas while sitting in outdoor areas.

COMMENTS ON CONSULTATION RESPONSES:

Noted.

DEVELOPMENT PLAN POLICIES

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

DDM1	D DM1 Aspects of form and design quality
QEDM1	QE DM1 Noise Pollution
RETSP1	RET SP1 Hierachy of Town Centres

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 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.

Rustington has a made Neighbourhood Plan but there are no policies contained within it that are relevant to the determination 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 there are unlikely

to be any significant impacts in terms of residential amenity and there are no adverse impacts on character.

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

The outdoor seating areas will be beneficial to the vitality of Rustington Town Centre and bring additional outdoor activity. They would accord with the aims of policy RET SP1 of the Arun Local Plan.

R/201/19/PL restricted opening hours of the bar to to 22.00 hrs Mon - Sat and 21.30 on Sunday's. As a result, there is no need to impose a condition concerning the outdoor seating as they will be taken in at a time when the bar closes. Further, the licence under which they operate, restricts outside seating and drinking to 7.30pm daily, so tables and chairs will be brought in at this time. This will then restrict noise to the inside of the pub.

Noise from customers seated outside of the pub is not expected to be excessive or detrimental to the area. The noise level will be minimal, and customers will be 'seated only' when outside. Environmental Health raise no objections and the use is permitted development (not requiring planning permission) up until 1 January 2022. However, it is reasonable to have a period of time in which to monitor the use to determine if there are significant impacts on residential amenity of adjoining properties, mindful that these properties have numerous other commercial town centre uses close by. It is suggested that the use be granted on a temporary basis up until 31 December 2022. The applicant can then apply for a permanent permission which should be forthcoming if there are no amenity issues during this time. This will ensure that the proposals accord with policy D DM1(3) of the Arun Local Plan.

The site is not within the Rustington Conservation Area and they will have no impact on the character of appearance of the Conservation Area or its setting.

Subject to a condition restricting the use to a temporary nature, the proposals are considered acceptable.

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

Block Plan DS/GF/02

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 The use(s) of land hereby permitted shall be discontinued permanently and the land restored to its former condition, or to a condition to be agreed in writing by the Local Planning Authority, on or before the expiration of the period ending on 31 December 2022

Reasons: In order to be able to review the proposed use and assess its impact on the residential amenity of adjoining properties in accordance with policy D DM1 of the Arun Local Plan.

- 3 **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.