

Recommendation Report for Planning Permission

REF NO: R/201/19/PL

LOCATION: 106 The Street
Rustington
BN16 3NJ

PROPOSAL: Convert existing retail shop (A1 Retail) into a micropub (A4 Drinking Establishments).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TOPOGRAPHY	Predominantly flat.
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	The application site contains a retail unit flanked by other adjoining retail units (premises).
SITE CHARACTERISTICS	The site comprises an occupied A1 unit within a shopping parade in the village centre.
CHARACTER OF LOCALITY	Predominantly retail with business and residential uses above.

RELEVANT SITE HISTORY

R/164/00/	Proposed development two retail shops with two self contained flats over	ApproveConditionally 15-12-00
R/85/91	Shopfront, minor structural alterations and landscaping associated with conversion from house to shop and flat	ApproveConditionally 27-08-91
R/49/91	Change of use to retail A1 on ground floor with self contained flat on first floor	ApproveConditionally 10-06-91

REPRESENTATIONS**REPRESENTATIONS RECEIVED:**

Rustington Parish Council

Rustington Parish Council: Object to this application, their comments are summarised as follows:

- Proposal would have unneighbourly impact on the locality.
- Would be detrimental to and would adversely affect the quiet enjoyment of the occupiers of the residential uses above.
- Pre-School and a Children's Nursery in extremely close proximity, would be injurious and could have a harmful affect on the operation of these facilities.
- Would be contrary to Rustington Neighbourhood Plan policies Character Area 4 and Policy 6 as it would result in loss of employment numbers.
- If minded to approve recommends a number of conditions.

19 letters of neighbour comment have been received, 15 letters of support and 4 of objection:

- Fully support this addition to the High Street.
- There is generally a lack of places for gatherings with friends in Rustington.
- This site is a central location allowing people to arrive safely on foot. A micropub would be perfect for the diverse ages within Rustington.
- Mircopub will bring a community together and will help local businesses thrive.
- Many pubs closed down over the years so would welcome this.
- Noise disturbance for flats above.
- Concerns with potential for increased traffic and parking demand.
- Concern with anti-social behaviour.
- Opposition to outside seating that may be applied for in future.
- Most support is from people outside the area.
- Objection to two businesses running from the premises.

COMMENTS ON REPRESENTATIONS RECEIVED:

Officers note the letters of support, many from customers of the applicant's other pub the Georgi Finn. While these letters of support are noted, limited weight has been given to them. The application will be determined in accordance with all relevant national and local planning policy applicable to this site.

Officers note the concern raised regarding the potential increase in traffic that would be generated by a drinking establishment. While the Highways Officer has not been consulted on this application, Officers note that there are many public car parks within the vicinity of the application site which could be utilised by customers to the proposed micro pub. Officers do not consider that every customer to the proposed micro pub would arrive by car. The application is considered to be a sustainable location that can easily be reached on foot, by bicycle or public transport e.g. bus. Additionally, Officers are aware that car use

would be the case for customers using this retail use especially where the purchase of lighting equipment is concerned.

Objection has been raised with regard to antisocial behaviour and how this may affect nearby education establishment. Antisocial behaviour is not a matter that can be controlled by planning legislation. Anti-social behaviour is a potential criminal activity controlled by the Police and where not other antisocial legislation. The potential for anti-social behaviour is therefore not a reason for refusal.

Concern has been raised that the proposal would result in 2 businesses operating from the application site. There is concern that the existing occupier of 106 The Street Rustington would continue to run part of their business from an outbuilding to the rear of the site. Firstly, planning permission has only been proposed for an A4 drinking establishment (Micro pub) to be run from the application site. Secondly the applicant has confirmed via email to the Local Planning Authority that the existing occupier would not be operating a separate business from the rear of this site. Should it come to light, following any approval of planning permission, that 2 business are running from the site enforcement action would be considered.

Objection/concern has been raised with regard to the potential for outside seating to be applied for in the future. Should an application for outside seating be submitted it would be assessed against all current and relevant planning Policy. As such the potential for an application to be submitted at a later date for outside seating, is not considered to be a reason for refusal.

CONSULTATIONS

Environmental Health

Economic Regeneration

Engineers (Drainage)

Engineering Services Manager

Sussex Police-Community Safety

Southern Water Planning

CONSULTATION RESPONSES RECEIVED:

Environmental Health Officer.

Request further information. If information not forthcoming recommends the imposition of a number of conditions.

Southern Water.

No objection.

Drainage and Coastal Engineer.

No objection.

Business Development Manager.

No objection. However, would question the employment numbers. The unit appears to be currently in retail use and presumably employing staff which is not reflected in the jobs created on the application form and may amount to a net loss of jobs as opposed to an increase of 2.

Sussex Police.

Does not object and has no concerns. A number of recommendations regarding secure design, etc. They also note the public CCTV camera outside the front of the application site. They also recommend sound insulation in order to protect occupiers of flat above from noise issues. Additionally they point out the low crime levels in the area

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

A number of conditions have been recommended by Environmental Health officers. Those not able to be applied and/or necessary/enforced as it applies to this application are those concerning:

- Asbestos.
- Signage requesting silent exit of premises.
- Unobtrusive music.
- Cooking/preparation of food.
- No gaming machines.
- Sole use as micro pub.

All other conditions governing hours of operation and measures to provide noise insulation are included.

POLICY CONTEXT

Designation applicable to site:

Within built up area.

Within Secondary Retail Frontage.

DEVELOPMENT PLAN POLICIES

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

SDSP1	SD SP1 Sustainable Development
SDSP2	SD SP2 Built-up Area Boundary
DDM1	D DM1 Aspects of form and design quality
DSP1	D SP1 Design
QEDM1	QE DM1 Noise Pollution
QESP1	QE SP1 Quality of the Environment
TSP1	T SP1 Transport and Development

PLANNING POLICY GUIDANCE:

NPPG	National Planning Practice Guidance
NPPF	National Planning Policy Framework

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.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area.

There are no relevant Rustington Neighbourhood Development Plan policies that apply in this case.

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 that the proposed development is not considered to have any significantly harmful impact upon the character of the locality, or the residential amenities of nearby dwellings.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

PRINCIPLE

The proposal is located within a sustainable location (in that it is well served by local bus services and is located within a town centre location with associated public parking and other community facilities.

The main policy considerations are policies RET SP1, RET DM1 and D DM1 of the Arun Local Plan.

DESIGN AND VISUAL AMENITY

The proposal seeks to change the use of the retail (A1 use class) property, known as 106 The Street Rustington, to A4 (Use Class) drinking establishment.

The application, as submitted, does not seek to make any changes to the frontage of the building. Therefore the proposal would keep the existing shop windows.

Officers note the objection from the Town Council where it is considered that the proposal would contravene the Village Design Statement - Character Area 4. Having regard to the Rustington Village Design Statement - Character Area 4 Officers note that the area is described as:

'Rustington's Main shopping area...and evolved into a popular and convenient place for shopping, working and other services such as banks cafes and hairdressers.'

The Design Guide (Rustington) makes reference to shopping with particular regard to retail and that alterations and extensions to existing shops should be welcomed. It also makes reference that the

existing retailing parade provides a good critical mass of shopping services serving Rustington well. Additionally it is stated that there is a good balance regarding competing interests between the out of town Retail Shopping Park and the Village Retail Centre, which should be maintained. Officers note that this proposal would lead to the loss of an A1 retail unit but do not consider that the proposal would be out of character with the area. Within the Village Centre there are a broad range of uses e.g. A3 cafes and restaurants as well as A1 retail and Officers consider that the proposal would add to this. The loss of an A1 unit, having regard to all other relevant Planning Policy is not considered to be out of keeping or detrimental to the character of the area.

Furthermore, officers do not consider that the proposal would be out of character with the area, particularly as the proposal, as submitted, does not seek to remove the existing shopfront 'display' windows.

Therefore, the application is considered to be in accordance with policies D SP1 and D DM1 of the Arun Local Plan which aim to reflect and respond to the character of their location .

NEIGHBOURING RESIDENTIAL AMENITY

The proposal is not considered to give rise to any significantly harmful impact upon the residential amenities of nearby dwellings.

Officers note objections regarding noise from the proposal and the resultant nuisance and disturbance it would cause to nearby residential users. So as to address these concerns the advice of Officers in the Environmental Health Department has been obtained. This includes conditions imposing opening hours so that it is not operating during hours that would unduly disrupt adjoining residential users notwithstanding the fact that this is a town centre location where noise and disturbance would not be an uncommon characteristic.

In order to avoid noise nuisance to nearby residential occupiers during anti social hours the premises will be conditioned to operate only between the hours of Noon - 10pm Monday to Saturday and Noon - 9.30 pm Sunday or any Public Holiday. This is in line with the opening hours of other non retail uses in the locality.

Additionally the Councils Environmental Health Officer has commented and recommends a number of conditions, should planning permission be granted. This includes:

- No live or amplified music at any time.
- Details to be submitted and agreed before any works commence regarding noise levels and proposed mitigation measures.
- Hours for the loading, unloading, storage and handling of goods along with vehicle arrival and departure times.

The applicant states that they are seeking an outside smoking area along with some tables and chairs. However, officers note that both the seating and smoking areas have not been shown on the submitted plans. That aside, the application as submitted encompasses the application premises only and not any outside area. Therefore no assessment has been made regarding these areas. The applicant would have to seek additional planning permission in the future if any outside seating and smoking areas are proposed.

Officers consider that with these measures in place the proposal would not have an unacceptable detrimental impact on the residential amenity of nearby residents or occupiers of other businesses, with particular regard to the flat above.

Having regard to the above assessment and conditions imposed, the proposal is considered to be in

accordance with policies D DM1(3) and QE DM1 of the Arun Local Plan.

RETAIL

Officers note that the proposal falls within the Secondary Shopping Area as highlighted on the Arun Local Plan maps. Policy RET DM1 - Retail Development needs to be addressed. Having regard to this policy Officers note Part 2 - Town centre uses within primary and secondary shopping frontages where it states that changes of use away from A1 retail use will be permitted subject to their use not having been made deliberately unviable and attempts to market for continued retail use need to have been made.

However part 2 of Policy RET DM1 makes reference to A1, A2 (offices) and A3 (Food and Drink) only. Therefore, it is considered that the A4 (Public House) drinking establishment use is considered to be exempt from the requirements of part 2 of Policy RET DM1 of the Arun Local Plan.

Policy RET SP1 - Local Services Centres states that:

'Rustington will maintain its existing role as a centre providing a good range of shops serving the local population, together with a range of other services and facilities. The Council will welcome development and initiatives which add cultural, community and leisure diversity to the centre to aid economic resilience and vitality.'

Officers consider that should planning permission be granted for this application, the change of use from A1 to A4 would not affect the ability of Rustington to maintain its existing role as a centre providing a good range of shops serving the local population, together with a range of other services and facilities. The use proposed is to be welcomed as providing a community and leisure facility to the town centre.

As such, it is considered that the proposal would not conflict with Policy RET DM1 and comply with policy RET SP1 of the Arun Local Plan.

RUSTINGTON NEIGHBOURHOOD DEVELOPMENT PLAN (RNP) POLICIES

Paragraph 30 of the National Planning Policy Framework (NPPF) states:

'Once a neighbourhood plan has been brought into force, the policies it contains take precedence over existing non-strategic policies in a local plan covering the neighbourhood area, where they are in conflict; unless they are superseded by strategic or non-strategic policies that are adopted subsequently.'

Officers note Policy 5: Local Shops in the RNP. It states that changes of use of existing shops in A1 (Retail) use will be resisted unless it can be demonstrated that they are no longer viable. This policy is in conflict with part 2 of policy RET DM1 of the Arun Local Plan where only changes of use to A2 and A3 from A1 require that they demonstrate that use A1 (the use that the premises is currently in) is no longer viable. It is noted that Use class A4 as proposed by this application is not included within the requirement of part 2 of policy RET DEM1.

Also noted is the 2014 date of the Rustington Neighbourhood Development Plan. Therefore, the fact that the current Arun Local Plan was adopted in July 2018, the Policies within the Arun Local Plan take precedence over those in the RNP. Therefore in line with paragraph 30 of the NPPF the proposal is not affected by Policy 5 of the Rustington Neighbourhood Development Plan as part 2 of policy RET DM1 of the Arun Local Plan takes precedence where A4 uses are not controlled where they result in the loss of an existing A1 use.

Objection has been raised by the Town Council where they claim the proposal would be contrary to Policy 6: Local Employment of the RNP. The part of Policy 6 that applies in this case states that proposals which would result 'in the loss of an existing employment or business use will be resisted'.

There is no conflict in this regard as the use proposed is a business use generating employment.

Officer do not consider that the proposal is in conflict with the policies of the RNP.

SUMMARY

The proposed development is deemed to accord with relevant development plan policies and as such is recommended for approval subject to the following 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. Officers note

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 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 Plan received 19/11/2019
Existing Floor Plan
Proposed Floor Plan

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.

- 3 The use hereby permitted shall be open to the public Monday - Saturday 12:00 - 22:00 and 12:00 - 21:30 Sunday or any public holiday.

Reason: To protect the amenity of local residents in accordance with Policy QE DM1 and D DM1 of the Arun Local Plan.

- 4 No commercial goods shall be loaded, unloaded, stored or otherwise handled and no vehicles shall arrive or depart, within the application site outside the hours 08:00 to 19:00 Monday to Friday, 08:00 to 18:00 Saturday or at any time on Sunday or Public or Bank Holidays.

Reason: To protect the amenity of local residents in accordance with Policy QE DM1 and D DM1 of the Arun Local Plan.

- 5 Prior to the first use of the premises, details of any plant (including ventilation, refrigeration and air conditioning) and/or ducting system to be used and the method of control of noise and vibration of this plant shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details, retained in perpetuity as agreed and the plant/equipment shall be permanently maintained in good order thereafter.

Reason: To protect the amenity of local residents in accordance with Policy QE DM1 and D DM1 of the Arun Local Plan.

- 6 Construction work shall not commence until a scheme for protecting the nearest noise sensitive residential dwellings, has been submitted to and approved in writing by the Local Planning Authority. Following approval and completion of the scheme, a test shall be undertaken by a competent acoustician and submitted to the Local Planning Authority to demonstrate that the attenuation measures proposed in the scheme are effective and protect the noise sensitive residential dwelling from unwanted noise. The details thereafter agreed shall be permanently retained.

Reason: To protect the amenity of local residents in accordance with Policy QE DM1 and D DM1 of the Arun Local Plan. This is required to be a pre-commencement condition because it is necessary to ensure that nearby residents are protected from unwanted noise during and after construction, with particular regard to the noise sensitive residential dwelling above.

- 7 There shall be no live or amplified music at any time.

Reason: To protect the amenity of local residents in accordance with Policy QE DM1 and D DM1 of the Arun Local Plan.

- 8 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.

- 9 INFORMATIVE: A formal application for connection to the public sewerage system is required in order to service this development. Please read our New Connections Services Charging Arrangements documents which has now been published and is available to read on our website via the following link

<https://beta.southernwater.co.uk/infrastructure-charges>

It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

For further advice, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119), www.southernwater.co.uk or by email at

developerservices@southernwater.co.uk