

Our ref. : AB1865/LPA220919

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

22nd September 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.
- 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.

Planning permission was subsequently granted for this development in June 2019, with the granting of permission subject to a number of conditions. Condition (3) stated that ;

'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.'

A separate Section 73 application (ref. R/141/19/PL) is currently under consideration by the LPA (the Case Officer for which is Anita Gardner) relating to the hours when deliveries and servicing can take place, and we have recently agreed an extension of time (until 11th October 2019) for the determination of that application.

This further Section 73 application relates to the hours of the machinery operations and ventilation, as condition (3) as originally imposed fails to take into account the need for machinery to be turned on prior to the premises opening to customers, so that food preparation can take place, and similarly when the premises close the machinery and ventilation operations would usually cease operating a short time after the closing time.

Accordingly, this application seeks the variation of condition (3) to enable machinery operations and ventilation associated with the approved A3/A5 use to take place between the hours of 09.00 to 23.30 on Mondays to Sundays, which will not have any adverse impact upon the residential amenities enjoyed by the occupiers of nearby residential properties, whilst also enable our client to operate the approved A3/A5 use effectively. No amendments are sought in terms of the trading hours of the premises.

With regards to procedural matters, it is recognised that current Section 73 application (i.e. application ref. R/141/19/PL) should be determined some time prior to the determination of this further Section 73 application, and a new planning permission will be issued when the current Section 73 application is determined.

Therefore we would ask that, once the current Section 73 application is determined, this further Section 73 application should relate to the decision notice issued in respect of current application ref. R/141/19/PL, and vary condition (3) as imposed on that planning permission so that that decision reflects the changes sought to both delivery and servicing hours and the hours of operation of the machinery operations and ventilation.

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

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