

Recommendation Report for Planning Permission

REF NO: R/246/21/PL

LOCATION: 144-146
The Street
Rustington
BN16 3DB

PROPOSAL: Installation of external extraction equipment. This site is in CIL Zone 4 (Zero Rated) as other development.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The proposed extraction system will leave the premises through the flat roof and the flue will then be laid flat on this roof ending before the rear vertical elevation.
TOPOGRAPHY	Predominantly flat.
SITE CHARACTERISTICS	Vacant bank premises fronting onto The Street and backing onto a service road. Two parking spaces to the rear. Offices above with an area of flat roof towards the rear.
CHARACTER OF LOCALITY	Mainly retail area with the site being located on a high street.

RELEVANT SITE HISTORY

R/52/21/PL	New shop front. This site is in CIL Zone 4 (Zero Rated) as other development.	ApproveConditionally 04-05-21
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R/52/21/PL granted permission for the associated shop front changes. It is noted that the applicant is a restaurant operator. The associated change of use is permitted development by virtue of the fact that the existing and proposed uses both fall within class E of the Town and Country Planning (Use Classes) Order 1987 (as amended) and no permission is required to go between uses in class E.

REPRESENTATIONS

Rustington Parish Council raise no objection.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS**CONSULTATION RESPONSES RECEIVED:**

ADC ENVIRONMENTAL HEALTH - state that insufficient information has been provided to address potential issues relating to noise and odour from the proposed scheme. It is noted that there are flats nearby and therefore a noise assessment is required.

COMMENTS ON CONSULTATION RESPONSES:

In response, the applicant provided a Plant Noise Assessment which states that noise from the extraction system will be within Arun District Council's criteria and therefore the plant installation is acceptable. Environmental Health were asked to consider this assessment and have stated that they are satisfied with its conclusions and have no further concerns regarding the application.

POLICY CONTEXT

Designations applicable to site:

Within the Built Up Area Boundary;
CIL Zone 4;
Current/Future Flood Zone 1;
Rustington Town Centre; and
Primary Retail Frontage.

DEVELOPMENT PLAN POLICIES

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

DDM1	D DM1 Aspects of form and design quality
DDM4	D DM4 Extensions&alter to exist builds(res and non-res)
RETDM1	RET DM1 Retail development
SDSP2	SD SP2 Built-up Area Boundary
QESP1	QE SP1 Quality of the Environment
QEDM1	QE DM1 Noise Pollution
QEDM3	QE DM3 Air Pollution

[Rustington Neighbourhood Plan 2014 Policy 2](#) Housing Design

PLANNING POLICY GUIDANCE:

NPPDG	National Design Guide
NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD13	Arun District Design Guide (SPD) January 2021
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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. Policy 2 of the Rustington Neighbourhood Development Plan is considered by this report.

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 it does not result in any harm to visual or residential amenity.

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:

The site is in the built up area boundary where development is acceptable in principle in accordance with Arun Local Plan (ALP) policy SD SP2 provided it accords with other policies of the development plan covering design and residential amenity/pollution.

Policy RET DM1 states applications for A3 (now class E(b)) uses will need to be accompanied by details of the provisions for the extraction of fumes and cooking odours. The associated change of use to a restaurant is permitted development but this application fulfils this particular requirement and therefore gains support from the policy.

DESIGN:

ALP policy D DM1 requires development make the best possible use of land by reflecting or improving the character of the site/surrounding area. Policy D DM4 sets out criteria for which applications relating to extensions and alterations of existing buildings must be assessed against and these seek to minimise the impact of the proposal on the character of the host building, its neighbours and the locality.

Rustington Neighbourhood Development Plan (RNDP) policy 2 allows for alterations provided that their scale, massing, height and materials reflect the character and scale of the surrounding buildings and landscape. The Arun Design Guide does not provide any guidance on the design of extraction systems.

The proposal is in accordance with the relevant policies as there are other similar extraction systems (and many instances of air condition units) on the backs of premises in this location and the system has been designed to minimise visual impact through it being laid flat on the roof and not protruding beyond

the rear elevation. It is not considered that the extraction system will cause harm to the character of the immediate locality.

RESIDENTIAL AMENITY, NOISE & AIR POLLUTION:

ALP policy D DM1 requires there be minimal impact to users/occupiers of nearby property and land. ALP policy QE SP1 requires all development contribute positively to the quality of the environment and ensure development does not have a significantly negative impact on residential amenity. ALP policy QE DM1 states new noise generating development should demonstrate there are no suitable alternative locations for the development and provide a noise report. Policy QE DM3 concerns air pollution but only refers to major or industrial developments of which this is neither.

Part K.05 of the Arun Design Guide requires mitigation in respect of noise from developments and states that measures must be installed to attenuate noise at its source to a level that complies with BS 8233:2014.

The extraction system is required in this location as it will serve a new restaurant and ensure that cooking odours are dispersed into the atmosphere. The submitted Plant Noise Assessment states that the kitchen extract fan will terminate 45m from the nearest noise sensitive receptor (Broadmark House) and that mitigation is proposed in the form of in-duct attenuators installed as close to the fan as possible. It is predicted that noise levels at the noise sensitive receptor will be 25dB whereas the existing background noise level is 41dB therefore there will be no harmful impact. Environmental Health have no concerns. As such, the proposal is in accordance with the relevant policies.

SUMMARY:

The proposal is in accordance with the relevant development plan policies and the application should be approved 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.

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 not CIL Liable as it concerns other development no new floorspace is created.

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 and documents:

Location and Block Plans ref 003 (Jan 2021);
"Extract System Proposal" (Floor Plan, Elevations and Roof Plan ref NWV/1/BBR (23/09/21);
Plant Noise Assessment ref 11416.RP01.PNA Rev 0;
Mechanical Ventilation and Environmental Control Equipment Information (23/09/21); and
"Multiflow SEL" Mixed Flow Fan Manufacturer Details.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policies D DM1, QE SP1, QE DM1 & QE DM3 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.