

Recommendation Report for Planning Permission

**REF NO:** R/298/21/PL

**LOCATION:** Land at  
Rustington Retail Park  
New Road  
Rustington  
BN16 3RT

**PROPOSAL:** Erection of a drive-thru coffee shop (Use Class E) with associated parking, service arrangement, landscaping and associated infrastructure. This application is in CIL Zone 4 (zero rated) as other development.

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| <b>SITE AND SURROUNDINGS</b> |
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|                            |                                                                                                                                                                                                                                                                          |
|----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| DESCRIPTION OF APPLICATION | The application seeks to construct a drive through coffee shop with internal seating, landscaping and a service area.                                                                                                                                                    |
| TOPOGRAPHY                 | Predominantly flat.                                                                                                                                                                                                                                                      |
| TREES                      | None of any significance affected by the proposed development.                                                                                                                                                                                                           |
| BOUNDARY TREATMENT         | A cycle way and footpath runs along the northern edge of the car park with vegetation along the boundary and the A259 beyond. To the western side Mill Lane and a slip road with roundabout to the east providing access to Sainsburys. To the rear is the railway line. |
| SITE CHARACTERISTICS       | The site is occupied by existing retail uses with Dunelm, Pets at Home and Halfords located to the south and south west boundary of the site. Sainsbury's foodstore with associated car parking is situated further east beyond the main access road.                    |
| CHARACTER OF LOCALITY      | The character is mixed with the site located within an existing retail park with residential uses to the south and north of the site beyond the A259.                                                                                                                    |

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| <b>REPRESENTATIONS</b> |
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Rustington Parish Council provided an objection.

- The proposed start and end times would adversely affect the amenity or nearby occupiers and are incompatible with current car parking closing hours.
- Would request the LPA consider setting the hours of operation to 7am-10pm.

Additional comments received 8.2.21

- Confirm to withdraw the objection subject to the opening hours being changed to 7am-10pm.

3 letters of objection received.

- It is unnecessary as there are already cafe areas.
- We will get all the litter, noise and car horns and proposed hours will make it worse.

- There is already a drive through further along the road.
- It does encourage people to use Rustington for local businesses.

#### COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted and addressed in the conclusion section. Following the objection, the agent has agreed to amend the opening hours from 7am to 10pm and as such the Parish removed their objection.

### CONSULTATIONS

#### CONSULTATION RESPONSES RECEIVED:

##### ENVIRONMENTAL HEALTH

A preliminary contaminated risk assessment was submitted which has shown the possibility for plausible contamination linkage. The following conditions are requested relating to contamination, construction management, noise assessment and external lighting.

##### ARCHAEOLOGY

It is unlikely anything of archaeological interest will have survived the previous development on the site. there is no objection and no justification for recommending measures to mitigate further impact.

##### ECOLOGY

From an ecological point of the view is site has negligible value however there are some trees within the red line. With precaution the works can proceed subject to a condition regarding the need for an ecologist to check the site if works are proposed between nesting season of March -October.

##### WSCC HIGHWAYS

The site is accessed via the existing roads serving the Rustington Retail Park. No changes are proposed to any of the existing access roads that form part of the publicly maintained highway.

However the suitability of the access immediately on the exit/entry onto the Rustington Retail Park roundabout would be questioned.

As shown, the proposed arrangement gives priority to vehicles entering and exiting the proposed use. Given the various existing commercial units would be expected to generate significantly more vehicle movements compared with the proposed use, it seems very unusual to have the low trafficked, minor arm access exerting a priority over the dominant traffic flow. The access is also extremely close to the entry/exit to the existing Rustington Retail Park roundabout leading to potentially confusing vehicle movements. Whilst recognised that the access arrangements are within private land, it is recommended that this is revised. In terms of vehicle movements, it's accepted that the proposed development would generate very little new trips to the network. The expectation is that the majority of trips will already be on the network and potentially linked with visits to other uses in the immediate area. The development is not expected to result in any severe highway capacity impacts.

The loss of 40 spaces in order to provide the new unit is acknowledged. It's also acknowledged that this would result in a level of parking for the existing units below that recommended by current parking standards, although it seems parking is below the standard already. From the car parking survey submitted, it's apparent that there is a significant under use of the existing parking with there being a large number of unoccupied spaces even at the peak time within the survey (55% of spaces are unoccupied at the busiest time). Even recognising the possibility that the parking survey (which was undertaken on a single day), is not truly representative, it's still apparent that even with the loss of 40 spaces, there would still be large number of available spaces (121 spaces would remain available at the

peak time identified by the survey with the loss of 40). The loss of 40 spaces is not expected to adversely impact the operation of the existing development.

#### DRAINAGE

Due to the location, type and scale there are no conditions to request.

#### GREENSPACE

The Landscape strategy and DAS have indicated that there would be the need to remove 5no existing trees to undertake the proposals. (Any proposed tree removals should be in consultation with the LPA Tree Officer). The removal of these would only be supported if mitigation planting were provided for betterment in this location. 5no trees of ornamental species are proposed as replacements as part of these works, these are show to be planted at an acceptable size. The information shown in Landscape Plan Dwg No 210-002 Rev P2, Planting Plan Dwg No 210-201 Rev P2 and Plant Schedule 210-SCH-001 have provided information of landscaping which in general would provide and increased ornamental offer in this location. Further detail will need to be provided in plan form showing actual quantities in location for the planting mixes rather than percentage mix. Mix B and Mix C will provide ornamental addition only and due to their low growing habit will not provide screening to the development, advise that the species mix of Mix B and Mix C are amended to provide further structured planting. The potential impact of the proposals would blend into the surrounding environment and existing commercial presence in this location with an early implementation of the proposed landscape mitigation scheme. Recommend no landscape objection to the proposals.

#### COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

Dicussions were had between the agent and WSCC and additional comments were provided by WSCC on the 9/2/22

'I have discussed the access arrangements with the applicant's transport consultant. You'll see that I've questioned the proposed access arrangement and suggested some alterations. Ultimately I accept all of the works are on private land and that the operation of these in association with the drive thru are unlikely to result in any severe or unacceptable impacts on the adjoining highway. There would be no transport/highway objection to the proposal.'

#### POLICY CONTEXT

Built up area boundary

#### DEVELOPMENT PLAN POLICIES

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

|        |                                                 |
|--------|-------------------------------------------------|
| EMPDM1 | EMP DM1 Employment Land: Development Management |
| QEDM1  | QE DM1 Noise Pollution                          |
| ENVDM4 | ENV DM4 Protection of trees                     |
| ENVDM5 | ENV DM5 Development and biodiversity            |
| TSP1   | T SP1 Transport and Development                 |
| WMDM1  | WM DM1 Waste Management                         |
| QEDM2  | QE DM2 Light pollution                          |
| QEDM4  | QE DM4 Contaminated Land                        |
| QESP1  | QE SP1 Quality of the Environment               |

|      |                                          |
|------|------------------------------------------|
| DDM1 | D DM1 Aspects of form and design quality |
| DSP1 | D SP1 Design                             |

Rustington Neighbourhood Plan 2014 Policy 6

Local Employment

**PLANNING POLICY GUIDANCE:**

|      |                                     |
|------|-------------------------------------|
| NPPF | National Planning Policy Framework  |
| NPPG | National Planning Practice Guidance |

**SUPPLEMENTARY POLICY GUIDANCE:**

|       |                                               |
|-------|-----------------------------------------------|
| SPD11 | Arun Parking Standards 2020                   |
| SPD13 | Arun District Design Guide (SPD) January 2021 |

**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.

**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 would not have a materially adverse impact on the residential amenities of nearby properties nor would it have a significant adverse impact upon the established character of the surrounding area.

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 falls within the built up area boundary where the principle of development is acceptable subject

to accordance with relevant policies which include EMP DM1, D SP1, D DM1, QE SP1, QE DM1, T SP1 and WD WM2 of the Arun Local Plan, the Arun Design Guide and Policy 6 of the Rustington Neighbourhood Plan.

Policy EMP DM1 is relevant to the application and states

1. Enhancement of employment premises and sites

The Council will seek to protect and enhance existing employment sites and premises in order to maintain a supply of good quality commercial sites and premises to meet the needs of businesses and the local economy.

The Council will promote and support positive measures to upgrade existing employment areas through:

- a. Supporting appropriate proposals for development/re-development of employment floorspace, upgrading or modernisation of existing premises and/or proposals which make more efficient use of under-used employment sites and premises; and
- b. Working with landowners and developers to achieve better management of employment areas, including measures which increase sustainability and reduce crime.

The proposal complies with the criteria above and provides an enhancement to an existing employment site through the addition of services.

Policy 6 of the Rustington Neighbourhood Plan relates to local employment. Proposals which would result in the loss of an existing employment or business use will be resisted, unless it can be demonstrated that the existing use is no longer viable. Proposals to expand an existing employment or business use will be supported, provided that any impact on flood risk, local amenity, traffic and landscape can be satisfactorily mitigated. The proposal complies with this and does not result in the loss of an employment uses but contributes to the site.

A sequential test has also be provided which demonstrates that consideration of alternatives sites had taken place. This assessed 14 locations within Littlehampton and Rustington and the application site was considered to represent the only site suitable and available for the type of development proposed.

#### DESIGN AND VISUAL AMENITY

The site is currently in use as existing car parking spaces servicing the Rustington Retail Park which include Pets at Home, Halfords and Dunelm, whilst a Sainsbury's superstore and associated parking is located immediately to the east.

The proposal is for a one-storey drive through coffee shop located to the north eastern corner of the retail park associated landscaping, zebra crossings and two disabled spaces.

The northern and eastern boundaries of the car park sit at a level noticeably below the slip road from the A259. The carriageway is lined with shrub planting and therefore views from the western direction are largely restricted. Views of the structure will be visible from the slip road and when entering the retail park from the east.

The scale and massing is appropriate to the size of the site and will not result in adverse harm upon the appearance of wider area which is in keeping with the surrounding commercial uses and within the context of Rustington Retail Park. At its maximum, the proposed height is 6.9m to tower level and 3.9m to parapet level which does not exceed surrounding units.

The development fits comfortably within the site and retains areas of soft landscaping on the eastern and south-eastern boundaries.

The materials proposed are contemporary in nature. The proposed unit will be clad on all sides with vertical fiber cement cladding panels, with the proposed tower to be clad with vertical timber cladding panels. The materials are considered to respond to its surroundings and do not result in the building appearing out of character with the area which features a mixture of materials and designs.

The Arun Design Guide states 'The scheme should respond to the existing scale and massing of the surrounding built environment, emulating this scale in the majority of cases. New designs should respond to the frontages and facades of existing buildings in their immediate surroundings and exemplars in the wider context in order to ensure a high-quality elevational treatment that integrates with the surrounding context. The existing character and sense of place of an area should be respected and enhanced'. The proposed unit complies with the guidance contained within the document providing a unit premises which integrates with the area in terms of its scale and design.

As a result of the design and scale of the proposed development, it will not result in adverse harm upon the appearance or character of the wider area and accords with relevant policies namely D DM1 and D SP1 of the Arun Local Plan and the Arun Design Guide.

#### **RESIDENTIAL AMENITY**

Due to the siting of the proposed drive through within an existing retail park and with sufficient distance from residential properties maintained, with the closest properties located beyond the railway line running along the boundary of the site to the south, the proposal would not result in adverse harm upon amenity.

The opening times have been amended and are agreed from 7am-10pm. This is more consistent with the opening times of other units in the retail park, with Sainsburys to the east of the site open until the same time. As such the opening times are not deemed to result in additional noise being created that would result in harm upon amenity to the south of the site or wider area.

Whilst the entrance of the unit faces west across the car park, external lighting will be subject to conditions to ensure that it is acceptable in terms of its siting and brightness and will not disrupt the wider area.

To the north of the site sits the A259, with a cycle and footpath running along the boundary of the car park from the north extending to the western side. This is not impacted by the proposal.

With residential properties an appropriate distance away from the site and with the use and opening times consistent with its surrounding businesses it will not result in adverse harm upon amenity in compliance with D DM1, QE SP1 and QE DM1 of the Arun Local Plan.

#### **PARKING**

The Retail Park has a single customer access point to the east of the site via a roundabout off the slip road from the A259 New Road, which also serves the adjacent Sainsbury's Superstore. The existing customer access into the Retail Park is retained, with alterations to existing paving, kerb lines, white lining and pedestrian crossings to integrate the proposals with the wider car park.

ADC Parking standards state 'Parking for non-residential uses needs to consider the accessibility of the site, the likely demand for parking and the viability of the site'. 'It is the responsibility of the developer to provide evidence that adequate facilities are provided on site for the proposed use including cycle parking, changing and storage facilities'.

ADC Parking Standards (January 2020) for restaurant and cafe uses require

- 1 space per 5sqm of public area and 2 spaces per bar for staff parking, clearly designated.

The proposed Starbucks will have a public floor space of 113sq.m and therefore would require 22 car parking spaces within the car park, plus another 2 for staff parking therefore 24 in total. A net loss of 40 spaces is proposed to accommodate the development and the scheme therefore does not comply with the guidance.

The retail park already provides a shortfall of parking when compared to the standards with 294 spaces and the removal of further spaces would reduce this providing a new total of 254 car parking spaces to serve the retail park.

Due to its siting, it is reasonable to assume that only a certain proportion of trips to the site will be 'new' trips to the highway network, while many will be 'pass by' or 'linked trips which are from cars already visiting other retail units.

A car parking survey was undertaken to assess the utilisation of the car park. The result demonstrate that a maximum of 133 cars were parked, with 161 spaces unoccupied. (This result was on a Saturday). This equates to a maximum observed car park occupancy of just 45%. When assessing the occupancy based on the removal of 40 spaces, occupancy would still only be at 52% and this demonstrates that there is sufficient car parking capacity within the Retail Park to accommodate the proposed development. Overall the results of the survey suggest that the car park is underutilised and thus the removal of 40 spaces for the proposal will have a negligible impact.

Following the results provided from the car parking survey and based on the comments from WSCC, the development is not deemed to result in adverse harm upon parking in the area or upon the use of the car park and highway in accordance with T SP1 of the Arun Local Plan.

#### **TREES**

There are no Tree Preservation Orders (TPO's) on, or within close proximity to the site. The Tree Survey identifies five existing trees on the site's eastern boundary and they have been subject to an arboricultural survey. All five trees are judged to be of relatively low quality. It is intended to fell the five trees and plant five new replacement trees at better spacing and utilising more columnar canopy form and species of appropriate scale for the site. The location of the replacement trees are shown on the plan and are in a similar location to existing as to retain the appearance of the site although set slightly further east beyond the development site. The species will consist of 2No. Betula pendula and 3No.Pyrus calleryana 'Redspire'. The tree officer has been consulted although no comment has been received. It is considered that the replacement trees and their locations are acceptable and the proposal will comply with ENV DM4 of the Arun Local Plan.

#### **WASTE**

To the southern elevation of the building is an enclosed service area which will be used to store the waste and receive collections. This will ensure it is well maintained and hidden from public view. A condition will be included for specific details regarding the capacity of the waste bins provided be submitted for approval.

#### **SUMMARY**

The proposed development is deemed to comply with relevant development plan policies and as such is recommended for approval subject to the following conditions and informatives.

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| <b>HUMAN RIGHTS ACT</b> |
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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 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

- Site Location Plan: 3713-SRA-XX-XX-D-A-PL-001-P2
- Proposed Site Plan: 3713-SRA-XX-XX-D-A-PL-055-P2
- Proposed Level 0 Plan: 3713-SRA-XX-XX-D-A-PL-060-P2
- Proposed Roof Plan: 3713-SRA-XX-XX-D-A-PL-061-P2
- Proposed North & East Elevations: 3713-SRA-XX-XX-D-A-PL-071-P1
- Proposed South & West Elevations: 3713-SRA-XX-XX-D-A-PL-072-P1
- Proposed AA & BB: 3713-SRA-XX-XX-D-A-PL-081-P1
- Landscape Plans: 210-002\_P2
- Planting Plans: 210-201\_P3
- Tree Constraints Plan: 210-001\_P1
- Plant Schedule: 210-SCH-001\_P3

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 landscaping scheme as shown in Landscape Plans: 210-002\_P2 shall be implemented before occupation and opening of the premise.

Maintenance operations shall be in place to ensure establishment of the proposed landscape scheme and replacements undertaken within 12 months of completion of any planting failing to thrive.

Reason: In the interests of amenity and of the environment of the development in accordance with policy D DM1 of the Arun Local Plan.

- 4 The use hereby permitted shall only be open to the public 07:00am to 22:00pm hours - Monday to Sunday including Bank Holidays.

Reason: To safeguard the amenities of the neighbouring properties in accordance with D DM1 of the Arun Local Plan.

- 5 Prior to the use commencing details of the external lighting of the site shall be submitted to and approved in writing by the Local Planning Authority. These details shall include the predictions of both horizontal illuminance across the site and vertical illuminance affecting immediately adjacent receptors. The lighting installation shall comply with the recommendations of the Institution of Lighting Professionals (ILP) 'Guidance Notes for the Reduction of Obtrusive Light' (GN01:2011).

Reason: To protect the amenity of local residents in accordance with Policy QE DM2 of the Arun Local Plan.

- 6 Any works to the trees or vegetation clearance on the site should only be undertaken outside of the bird breeding season which takes place between 1st March - 1st October. If works are required within this time an ecologist will need to check the site before any works take place (within 24 hours of any work).

Reasons: To ensure protection of species and their habitats in accordance with ENV DM5 of the Arun Local Plan.

- 7 Prior to commencement of the development the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved in writing by the Local Planning Authority:

1. A Site Investigation Scheme, based on previous preliminary risk assessment to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
2. Based on the Site Investigation Scheme and the detailed risk assessment (1), an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
3. A Verification Report providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Note: Any changes to these components, (1) to (3) require the express written consent of the Local Planning Authority.

The scheme shall be implemented as approved above and, prior to commencement of any construction work a Verification Report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of that remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. The report shall also include a long-term monitoring and maintenance plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification report, and for the reporting of this in writing to the Local Planning Authority.

Reason: To protect the amenity of local residents in accordance with Policy QE DM4 of the Arun Local Plan.

- 8 Details of the storage of rubbish including the number and capacity of bins for the proposed retail unit shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation and opening of the retail unit. The bins shall thereafter be permanently provided for the uses.

Reason: To protect the amenities of nearby residents in accordance with Arun Local Plan policies QE SP1 and QE DM3.

- 9 No development shall be commenced, including any works of demolition until such time as plans and details have been submitted to and approved in writing by the Local Planning Authority showing the site set up during construction. Thereafter the approved plan shall be implemented and adhered to throughout the entire construction period. The plan shall provide details as appropriate but not necessarily be restricted to the following matters:
- a) An indicative programme for carrying out of the works;
  - b) Details of the arrangements for public engagement / consultation both prior to and continued liaison during the construction works;
  - c) Measures to minimise the noise (including vibration) generated by the construction process to include hours of work, proposed method of piling for foundations, the careful selection of plant and machinery and use of noise mitigation barrier(s);
  - d) Details of any floodlighting, including location, height, type and direction of light sources and intensity of illumination;
  - e) The parking of vehicles of site operatives and visitors;
  - f) Loading and unloading of plant and materials, including permitted times for deliveries;
  - g) Storage of plant and materials used in constructing the development;

Reason: To protect the amenity of local residents in accordance with Policy QE SP1 of the Arun Local Plan.

- 10 No development hereby permitted shall commence until details including acoustic specifications, of all fixed plant, machinery and equipment associated with air moving equipment, compressors, generators or plant or equipment of a like kind, installed within the site including prediction of noise from vehicle trips which has the potential to cause noise disturbance to any noise sensitive receivers, have been submitted and approved by the Local Planning Authority. The rating level of noise emitted from the use of this plant, machinery or equipment shall not exceed the measured background sound level when assessed by a competent acoustician using BS 4142:2014, at any adjoining or nearby noise sensitive premises.

Reason: To protect the amenity of local residents in accordance with Policy QE DM1 of the Adopted Arun Local Plan 2011 - 2031

- 11 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.