

REPORT UPDATE

Application No: R/34/19/PL

Reason for the Update / Changes

Reason for Update/Changes:

The condition relating to operating hours has been amended to specifically include delivery times and hours of operation.

Note: The changes to recommendation, conditions and/or reasons are attached on the amended replacement recommendation sheet.

Notes: Changes to recommendations, conditions and / or reasons for refusal will always be reflected in the recommendation section of the attached Officer's Report.

Recommendation Report for Planning Permission

REF NO: R/34/19/PL

LOCATION: 4 Broadmark Parade
Broadmark Lane
Rustington
BN16 2NE

PROPOSAL: Change of use of currently vacant former A1 (Shops) ground floor premises to a mixed A3/A5 (Restaurants & Cafe & Hot Food Takeaway) use, incorporating the erection of a single storey rear extension, replacement shopfront & associated plant & extraction equipment

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

Change of use of currently vacant former A1 (Shops) ground floor premises to a mixed A3/A5 (Restaurants & Cafe & Hot Food Takeaway) use. The single storey rear extension would be flat roofed and project approximately 11 metres by 5 metres in width with a height of 3 metres with additional air cooling and extraction systems rising to 4.4 metres in height.

The scheme would incorporate a 1.4 metre high grey metal louvre 'grill' fence screening the extraction systems from public view. This would drop to approx. 1 metre in height close to the rear elevation windows of the flat dwelling at first floor.

SITE AREA

0.1 hectares.

BOUNDARY TREATMENT

The site currently has a 2 metre brick wall to the rear yard.

SITE CHARACTERISTICS

An A1 retail use with residential accommodation above. The shop was last used 18 months ago as a home nursing supplies shop. The site backs on to Rustington Waitrose car

park (public car park).

CHARACTER OF LOCALITY

A local shopping parade serving Rustington village centre.

RELEVANT SITE HISTORY

R/67/10/

Change of use from A1 (retail) to A2 (estate agents)

ApproveConditionally
04-06-10

The shop unit had previously been used for A2 - financial and professional services - as an estate agency.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Rustington Parish Council

Objection on the following grounds:

- The proposed change of use would attract standing vehicles causing a hazard to safety and additional congestion.
- The proposal to install extraction equipment on the roof of the proposed extension in close proximity to residential properties would be unneighbourly by reason of its mass, noise emission levels and fumes.
- The proposed use would have an unneighbourly impact on the locality due to the general nature of the use and activity that would be generated.

Two letters of objection have been received from the former retail occupier of the premises:

- Site notices posted in hard to access locations.
- A1 retail uses (shops) should be retained at this location.
- Already many non A1 uses in the area.
- Noise nuisance to neighbouring properties.
- Service and delivery vehicles will cause congestion.

COMMENTS ON REPRESENTATIONS RECEIVED:

Site notices were posted and photographed on 28th February 2019 as follows:

- 1) Lamppost to front.
- 2) Fence to rear along passageway.

The other issues raised are addressed within the Conclusions section of the report below.

CONSULTATIONS

Environmental Health

Economic Regeneration

WSCC Strategic Planning

CONSULTATION RESPONSES RECEIVED:

Arun District Council (ADC) Environmental Health - No objection subject to standard conditions relating to the type of use.

ADC Economic Development - No objection.

The Economic Development team would prefer to see an A1 use retained however they note the marketing information and would prefer to see the property in use rather than being an empty retail unit in a poor condition.

West Sussex County Highways have been consulted and comments are awaited.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designation applicable to site:
Secondary Shopping Parade.

DEVELOPMENT PLAN POLICES

[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)
DSP1	D SP1 Design
QEDM1	QE DM1 Noise Pollution
QEDM2	QE DM2 Light pollution
QEDM3	QE DM3 Air Pollution
TSP1	T SP1 Transport and Development
TDM1	T DM1 Sustainable Travel and Public Rights of Way
WMDM1	WM DM1 Waste Management

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

RDS	Rustington Design statement by Rustington Parish Council
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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 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 policies relevant to this application in the Rustington Neighbourhood Plan.

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 the proposed use is not considered to have a significant impact on the residential amenity of neighbouring properties or wider visual amenity within the area. In addition the proposed change of use away from a retail use is supported by the marketing information supplied.

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 key policies applicable to this proposal include D DM1, D DM4, T SP1, RET DM1 and RET SP1 of the Arun Local Plan. These policies seek to ensure that the change of use is acceptable in relation to retail uses in Rustington village centre, that the proposed extension and development as a whole is of a high quality of design and acceptable impact on neighbouring residential amenity, that the development is adequately serviced by parking facilities, can be easily accessed and would not cause any hazards to the local transport network.

LOSS OF A1 RETAIL USE

In the case of Rustington the aim is to maintain its existing role as a centre providing a good range of local services.

The proposed use therefore falls to be considered against the provisions of policy RET DM1 of the Arun Local Plan which states that along secondary frontages A1 retail uses will be permitted and A3 uses will only be permitted where they would not create a concentration of non-retail uses harming the village centre. Proposals also need to show that they would retain a shop window and would not adversely affect the character of the area or local amenity due to smell, litter or noise. In the event of a change of use from A1, marketing evidence to demonstrate that an A1 use is not viable is required.

The agents have submitted a statement from Michael Jones & Company estate agents dated 4th February 2019 which sets out, with detailed marketing evidence, the unsuccessful marketing of the property for A1 retail use over the past 21 months from October 2017. This is accepted as sufficient

evidence of marketing and viability for the purposes of this policy. The Council's Economic Regeneration team support the proposal to bring back a currently vacant use into commercial use.

Whilst the Arun Local Plan does not define what is regarded to be a concentration of retail use, the Rustington Design Statement advises at paragraph 13 that a concentration of non retail uses is defined as two or more adjacent uses. In this case there are two A1 uses on either side of the application unit. An A3/A5 use would be likely to contribute to the vitality and viability of the primary shopping area creating activity and provide a community resource throughout the day and evening.

The shop front, as submitted, would be in keeping with the area and the issues of noise, odour and litter have not resulted in an objection from the Council's Environmental Health Officers.

The proposal is considered to be in accordance with policies RET SP1, RT DM1 and the Rustington Design Statement.

VISUAL AMENITY AND CHARACTER OF THE AREA

The existing building comprises a two storey structure with residential above part of a purpose built local parade of terraced shops. It is brick built with pitched roof. The proposed single storey extension would be located and only visible from the rear of the building. The first floor residential use would be retained. The design of the extension would be in keeping with other ancillary rear extensions in the parade. The materials would match the existing property.

An additional louvre fence screening the air conditioning unit and odour extraction structures on the roof is proposed to soften the appearance of the development which can be viewed from across the car park to the rear and public alleyway accessing the primary shopping area. Given other similar extensions and odour extraction systems nearby (i.e. at 9 Broadmark Parade) the proposal would not be at odds with the local shopping parade & commercial character of the area or appear prominent or obtrusive in the street scene in accordance with policy D DM1 and D DM4 of the Arun Local Plan.

The site lies in Character Area 4 of the Rustington Village Design Statement. This recognises the importance of the existing shopping centre and emphasises that alterations and extensions should not detract from the character and that the hard and soft landscaping should be retained and encouraged. The Village Design Statement has been endorsed as a material planning consideration by the Council and the advice contained therein has been afforded appropriate weight in the determination of this application.

The proposed development is considered to be acceptable with respect to visual amenity in that the development would not be out of character within the commercial area in which it is located and therefore would accord with policies D DM1, D DM4 and D SP1 of the Arun Local Plan and the Rustington Design Statement.

RESIDENTIAL AMENITY AND POLLUTION

The premises will retain residential accommodation at first floor and there are other residential units above adjoining units in the parade. While commercial uses and delivery vehicles and associated noise, disturbance and odours are part of the current residential environment, it is important to ensure any noise and activity generated by the proposal does not have a significant additional adverse impact on residential amenity. The hours of operation and delivery times are to be restricted by condition. Furthermore, the extraction system is considered acceptable to the Arun District Council Environmental Health subject to standard conditions.

The extraction systems would be located on the roof of the extension located at the rear on the east side of the two storey premises and would be screened by a grey metal louvre fence at up to 1.4 metres in height. The rear bedrooms of the first floor residential apartments would be set a minimum of 8 metres away from the extraction units. With these measures in place, it is not considered that the residential amenities of any neighbouring residential properties in terms of a loss of light and privacy, excessive noise or an overbearing impact would be unacceptable, given the current commercial nature of the properties.

The Environmental Health officer has also requested further conditions relating to the hours of operation and times of fast food takeaway deliveries. The site is already subject to significant noise and disturbance due to the use of the public car park which serves the Rustington village centre throughout the operating hours of, in particular the Waitrose supermarket, as well as other A3/A5 uses including the Dominos pizzeria at 9 Broadmark Parade. The use of this site has not generated any complaint to the Council despite having operated for a number of years. Therefore a similar restriction to opening hours of the application premises is considered reasonable and appropriate.

In summary, it is considered that the change of use and proposed extension could be undertaken without adversely affecting the residential amenities of adjoining properties in accordance with policy D DM1, D DM4, QE SP1, QE DM1 and QE DM3 of the Arun Local Plan.

HIGHWAYS

The site is located adjacent to one of the main public car parks in Rustington which provides up to 3 hours parking as well as further public car parking opposite on the layby to the primary shopping frontage on The Street. In addition, there are adequate bus stops and services nearby. As a whole parking for deliveries and customers visiting the premises would be adequate and similar to other similar uses in the village centre.

To the front of the premises there are railings, double yellow lines and traffic lights to prevent vehicular access onto the pavement from the road frontage.

The proposal is acceptable with respect to policies T SP1 and T DM1 of the Arun Local Plan.

CONCLUSION

In summary the proposed development is acceptable in principle and would in all other respects accord with Development Plan policy and is therefore 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.

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:

Proposed Roof Plan dwg. no. 2940/PL125 Rev. B dated 09.05.19.

Proposed External Elevations dwg.no.Rev. C 2940/PL211 dated 08.05.19.

Proposed Ground Floor GA Plan dwg.no. 2940/PL100 Rev. A dated 20.12.2018.

Proposed First Floor GA Plan dwg.no. 2940/PL101 Rev. A dated 06.02.19.

General Arrangement of HVAC Installation Plan & Side Elevation dwg.no. 0000/M/101 Rev B dated 08/02/19.

General Arrangement of HVAC Installations Sheet 2 of 2 - Elevations dwg.no. 0000/M/101 Rev B dated 08/02/19.

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 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 Saturday and between 10.30am and 10pm on Sundays and Bank Holidays.

Reason: To protect the amenities of occupiers of adjoining properties in accordance with Arun Local Plan policies D DM1, QE DM1 and QE DM3.

- 4 The extraction system shall be constructed and retained in perpetuity in accordance with the following document:

The Mechanical Ventilation & Environmental Control Equipment - Planning Application Information dated 21-01-18 & email update of 09/05/2019 15:32.

Reason: To protect the amenities of occupiers of adjoining properties in accordance with Arun Local Plan policies QE SP1, QE DM1 and QE DM3.

- 5 The use hereby permitted shall include the sound insulation scheme, recommended by Ned

Johnson Acoustic Consultants' Acoustic Assessment (ref. 451819 Rev. A, dated February 2019), for protecting the upper floor residential unit from noise. The scheme shall achieve a minimum airborne sound insulation value of 50dB (DnTw + Ctr dB). Following implementation of the insulation scheme, a test shall be undertaken to demonstrate that the attenuation measures carried out has achieved the minimum airborne sound insulation criteria. The use of the development shall not commence until test results, demonstrating the minimum sound insulation criteria has been achieved, has been submitted to and approved by the local planning authority.

Reason: In the interests of the amenity of nearby residents & occupiers of any nearby noise sensitive premises, the general amenities of the area and in the interests of highway safety in accordance with policies D DM1 and QE SP1 of the Arun Local Plan and the National Planning Policy Framework.

- 6 The development shall proceed in accordance with the details contained within the Delivery and Service Plan dated December 2018.

Reason: To protect the amenities of occupiers of adjoining properties and provide adequate servicing and delivery to the premises in accordance with Arun Local Plan policies QE SP1, QE DM1, QE DM3 and T SP1.

- 7 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 identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

- 8 INFORMATIVE: The premises will require Registration under the Food Safety Act 1990 and will need to comply with the standards contained in the relevant Food Hygiene Regulations prior to becoming operational. The applicant is advised to contact The Food Safety Team at Environmental Health on Tel 01903 737755 or via E-Mail at Food.Safety@arun.gov.uk.