

Recommendation Report for Planning Permission**REF NO:** R/78/17/PL**LOCATION:** 137 The Street
Rustington**PROPOSAL:** Change of use from shop (A1 Shops) to restaurant/cafe (A3 Restaurants/Cafes)
with elevational alterations & outside seating.**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION	As above
SITE AREA	0.01 hectares
RESIDENTIAL DEVELOPMENT DENSITY (NET)	N/A
TOPOGRAPHY	Predominantly flat.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	The front boundary of the site is open.
SITE CHARACTERISTICS	The premises are currently empty, but were previously occupied for retail purposes. The premises occupy a corner site and has 2 frontages.
CHARACTER OF LOCALITY	The character of the locality is predominantly retail at ground floor. The site is located at the end of the main parade of shops. There are other coffee shops and restaurants close by within The Street and Broadmark Parade, but the adjoining units are in retail use.

RELEVANT SITE HISTORY

R/207/59	Widening proposed shop and installation of shopfront	Approve 06-01-1960
R/124/83	Renewal of shopfront	ApproveConditionally 25-05-1983

REPRESENTATIONS**Representations received:**
Rustington Parish Council
No Objection

Comments on Representations received:

None

CONSULTATIONS

Economic Regeneration

Environmental Health

Consultations responses received:

Environmental Health - No Objection. Suggested conditions relating to noise, hours of opening, music, odour and outside seating area.

It is considered that the use of any outside space for drinking/dining, will introduce an uncontrollable noise source in respect of nearby residential units. As a result it is important to ensure control of the potential for noise disturbance at the Planning stage.

Economic Regeneration - No Objection

Comments on Consultation responses:

- comments noted. Requested conditions have been imposed

POLICY CONTEXT

Designation applicable to site:

Within Built Up Area Boundary

Principal Shopping Area

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:	AREA19	Primary Shopping Frontages
	GEN7	The Form of New Development
	GEN12	Parking in New Development
	GEN32	Noise Pollution
Publication Version of the Local Plan (October 2014):		D DM1 Aspects of Form and Design Quality
		D DM4 Extensions and Alterations to Existing Buildings (residential and non-residential)
		RET DM1 Retail Development

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

A new local plan is in preparation may be a material consideration when determining Planning Applications. At this stage the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and supporting documents were submitted for independent examination on 30 January 2015. The Examination into the submitted plan was commenced but is currently suspended whilst Arun District Council addresses matters raised by the Inspector.

A number of Main Modifications to the Arun District Local Plan 2011-2031 (Publication Version)

October 2014 were approved by the Council on 22nd March 2017 and consultation on these is taking place 10 April 2017 to 5pm on Tuesday 30 May 2017. The Main Modifications should be read alongside the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and where there are changes the Main Modification may also be material consideration to take into account.

Arun District Council's Development Plans:

Paragraph 215 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight. The weight afforded to the policies with Local Plan policies can be assessed according to their level of consistency of the various policies with the National Planning Policy Framework.

Paragraph 216 of the NPPF confirms that weight can be given to policies in emerging plans from the day of publication. The Council resolved that the policies and maps in the Publication Version of the Local Plan be used are material considerations in the determination of this planning application. The emerging Plan was submitted in January 2015 and the examination is currently suspended. The examination is due to re-commence in summer 2017 following publication of modifications to the Plan.

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 and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation (Reg.14).

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton. The written Ministerial Statement of 13 December 2016 confirms that relevant policies for the supply of housing in Neighbourhood Plans should not be deemed to be out of date where all of the following circumstances arise;

- The NDP has been part of the development plan for 2 years or less or the ministerial statement is less than 2 years old
- The NDP allocates sites for housing
- The Council can demonstrate a three-year supply of deliverable housing sites

Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation (Reg.14).

The Rustington Neighbourhood Plan has been made but there are considered to be no relevant policies to the determination of this application

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 have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it have an adverse impact upon the established character of the surrounding area.

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 application site falls within the built up area boundary where the principle of development is acceptable subject to accordance with relevant development plan policies. The key policy consideration in the determination of this application is deemed to be GEN7 of the Arun District Local Plan. The application site also falls within the principal shopping area and outside the primary retail frontage area as such it is considered that policy AREA19 of Arun District Local Plan is not relevant.

DESIGN AND VISUAL AMENITY

The proposal includes minimal alterations to the external appearance of the property. The key alteration will consist of the installation of new bifold doors and new rendering and cladding to the elevations. These alterations to the external appearance of the premises are not considered to have any adverse impact upon the character or appearance of the existing property and as such are deemed to accord with policy GEN7(ii) of the Arun District Local Plan.

RESIDENTIAL AMENITY

The proposed change of use is not considered to give rise to any unacceptably adverse overbearing, overshadowing or overlooking impacts on neighbouring properties.

The proposal has been considered by Environmental Health who have raised no objections in relation to the proposed extraction equipment -and noise generation subject to suggested conditions which have been included . Therefore, it is considered that the proposed use will not give rise to any unacceptably adverse odours or noise which will adversely impact upon the residential amenity of neighbours.

It is considered that the proposed use is in keeping with the established character of the area - similarly it is considered that the proposed use would not result in unacceptably adverse

intensification or disturbance beyond that which could be expected in this locality. There are other restaurants in The Street which are similarly located with regard to neighbouring residential properties.

Therefore, it is considered that the proposed change of use would accord with the limitations of policy GEN7(iv) of the Arun District Local Plan.

CHARACTER OF THE AREA

The continued use of the premises in the centre of Rustington would have a positive supporting impact on the adjacent primary shopping frontages and the vitality of the shopping area generally.

SUMMARY

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

HUMAN RIGHTS ACT

FOR APPROVAL

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: 8388/100.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy GEN7 of the Arun District Local Plan.

- 3 Before the use commences, the applicant shall submit to the Local Planning Authority a report prepared in accordance with the provisions of BS4142, to predict noise levels at the nearest residential property particularly with respect to safeguarding the amenity of nearby flats and any mitigation measures that may therefore be necessary. This shall include noise from any mechanical ventilation system to the kitchen, or air conditioning unit. The development shall proceed in accordance with the approved details.

Reason: To safeguard the amenities of nearby residents in accordance with policies GEN7 and GEN32 of Arun District Local Plan.

- 4 The premises shall not open for trade or business except between the hours of 08:00 and 23.00 hours on Monday to Saturday and 08:00 to 22:00 hours on Sundays and Bank, or Public Holidays. No deliveries should take place outside these times.

Reason: To safeguard the amenities of nearby residents in accordance with policies GEN7 and GEN32 of Arun District Local Plan.

- 5 Only background music alone is permitted within the premises and no music is permitted outside at any time.

Reason: To safeguard the amenities of nearby residents in accordance with policies GEN7 and GEN32 of Arun District Local Plan.

- 6 The outside area of the premises hereby approved shall not be used for consumption of food, or drink after 21:00 hrs and the outside area shall be closed by 21:00 hrs and any tables and chairs used outside shall be put away by 21.30 to discourage people from gathering and the Bi fold windows shall be closed by 21:00 hours

Reason: To safeguard the amenities of nearby residents in accordance with policies GEN7 and GEN32 of Arun District Local Plan.

- 7 The use hereby permitted shall not be commenced until the equipment to be used to discharge odours and fumes from the cooking process have been installed in full working order to the satisfaction of the Local Planning Authority. Any system for the mechanical ventilation of the kitchen must accord with Defra Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems, January 2005.

Reason: To ensure that unsatisfactory cooking odours outside the premises are minimised in the interests of the amenity of nearby residents in accordance with policies GEN7 and GEN32 of Arun District Local Plan.

- 8 Any external lighting in association with this development shall comply with the Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light, Obtrusive

Light Limitations for Exterior Lighting Installations for Zone E3.

Reason: To safeguard the amenities of nearby residents in accordance with policy GEN7 of Arun District Local Plan.

- 9 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 Environmental Health for further information.
- 10 INFORMATIVE: The described provision of one male WC and one female WC, both with separate wash hand basins, will be sufficient for up to and including 50 customers to include any al fresco dining area. Given size limitations then this provision will be also be acceptable as staff sanitary accommodation. One of these WC units should be wheelchair accessible. (See Arun District Council 'Provision of Sanitary Accommodation in Food Business')
- 11 INFORMATIVE: The extraction equipment should be regularly maintained to ensure its continued satisfactory operation.
- 12 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.