

REPORT UPDATE

Application No: R/84/26/PL

Reason for the Update / Changes

Reason for Update/Changes: Publication of new NPPF.

Officers Comment: The NPPF changes do not alter the recommendation for this application. National Decision Making Policy (NDMP) P3 reflects similar policies in the NPPF(2024) and ALP policy QE SP1 in requiring proposals not to have unacceptable negative impacts on the occupiers of neighbouring properties and land.

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/84/26/PL

LOCATION: Ground Floor
55-57 Sea Lane
Rustington
BN16 2RQ

PROPOSAL: New commercial kitchen extractor installed on rear facade of outbuilding, alterations to existing windows and doors at rear ground floor level and the erection of a covered walkway structure in rear garden. This application is in CIL Zone 4 and is Zero Rated as other development.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Various alterations to an outbuilding including alterations to fenestration, erection of a covered walkway between the main building and the outbuilding, and a commercial kitchen extractor.
SITE CHARACTERISTICS	Small, pitched roofed outbuilding. The ground floor of 55-57 Sea Lane is a former office building, and the first and second floors form a residential unit.
CHARACTER OF LOCALITY	Largely residential in character, with residential uses to the east and south with some commercial uses in the Sea Lane and to the north on The Street.

RELEVANT SITE HISTORY

R/148/25/PD	Prior approval under Schedule 2, Part 3, Class MA for the change of use of first and second floors from office	No Object'n + Conds 09-10-25
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use to 1 No maisonette.

REPRESENTATIONS

Rustington Parish Council - Object.

- The extractor would adversely impact the quiet enjoyment of neighbouring occupiers as a result of noise, odours and the height of the flue.
- Impact on nearby listed buildings and conservation area.
- Existing parking spaces may impact fire safety.
- Walkway between the restaurant and kitchen is not enclosed and may be a safety concern for staff.
- Development could lead to customers parking in the adjacent private road. Food deliveries directly to the kitchen may also take this route.

39 No. Objections were received raising the following concerns:

- Lack of parking.
- Disruption as a result of delivery drivers.
- Lack of information regarding refuse arrangements, including storage of food waste close to residential dwellings and potential to attract foxes and rats.
- Proximity to residential properties.
- Lack of demand for a new restaurant/takeaway.
- Increased comings and goings, leading to increased noise, particularly late at night.
- Traffic issues, leading to decreased pedestrian safety.
- Increased litter.
- Potential bat activity in the area.
- Restaurant takeaway is out of keeping with the character/use of other premises on the shopping parade.
- Increased antisocial behaviour.
- Lack of toilet facilities within the premises.
- Proximity of flue to terrace of neighbouring property and habitable rooms.
- Extractor system should be terminated above the ridge level.
- An application for sui genesis use as a hot food takeaway should be made.
- Pavement on Sea Lane is narrow.
- Issues with access to the rear of the property, which is used by other businesses.
- Proposed type of fan unit would increase noise.
- Design of the extraction unit is inadequate.
- Application contains insufficient information about odour mitigation/odour concerns.
- Fire safety concerns.

9 No. letters of support were received stating that:

- The local economy would benefit from more small businesses.
- Increased choice of facilities is a benefit to the local community.
- The existing shop is vacant and its re-use is positive.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted. Many comments above refer to potential issues relating to the change of use to a restaurant/takeaway. Whilst the alterations would facilitate the use of the premises as a restaurant, the application does not seek planning permission for a change of use. This application relates only to the extractor, walkway and minor works to the outbuilding and parking, access, refuse arrangements, litter

and disruption are not a consideration. Matters relating to alterations to the outbuilding, its appearance and impact on neighbouring residents are addressed below.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

ENVIRONMENTAL HEALTH - No objection subject to conditions.

- Condition requested regarding a scheme for the extraction and treatment of fumes and odours, installation of grease traps, and submission of a scheme relating to protection of nearby noise sensitive dwellings from noise.

- Informatives requested regarding other requirements for food businesses.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designation applicable to site:

Built Up Area Boundary

CIL Zone 4

DEVELOPMENT PLAN POLICIES

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

QESP1	QE SP1 Quality of the Environment
DDM1	D DM1 Aspects of form and design quality
QEDM1	QE DM1 Noise Pollution
QEDM3	QE DM3 Air Pollution
DSP1	D SP1 Design

PLANNING POLICY GUIDANCE:

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.

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 complies with relevant Development Plan policies in that the extractor and other changes will not harm the visual amenity of the area, and will not harm the amenity of neighbouring residents.

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

There are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

PRINCIPLE

This application seeks permission for various alterations to an existing building at the rear of a commercial premises. The alterations include changes to fenestration, erection of a covered walkway and the installation of a commercial extractor.

This application relates solely to the alterations to the outbuilding, and is not an application for a change of use of 55 - 57 Sea Lane. 55 - 57 Sea Lane lies outside of the red line boundary and the use of this unit is not considered under this application.

DESIGN AND VISUAL AMENITY

The site is an outbuilding to the rear of a former office. The outbuilding is not a prominent feature of the street scene, but is visible to some extent from Cudlow Avenue and from nearby properties.

The alterations to fenestration include the replacement of the door at the rear of the outbuilding with a standard single door, and the blocking up of windows on the south elevation. These alterations will have a minimal impact on the appearance of the building, and are acceptable in accordance with ALP policy D DM1.

The walkway would not be visible from the public realm, and would be a timber canopy structure, spanning the distance between the main building and the outbuilding. The walkway would have a flat, mono-pitched roof, with a width of 2m and a height of 2.5m. The structure is lightweight and would have a minimal impact on the character and visual amenity of the area.

The kitchen extractor would be on the rear elevation, and would be visible to some extent from Cudlow Avenue. The extractor would project approx.1.7m from the roof and has a width of 0.5m. The structure has a utilitarian appearance, but would not be unduly prominent in the street scene. The extractor would not cause demonstrable harm to the character or visual amenity of the building.

The alterations would not be prominent when viewed from the public realm and are minor in nature. There would be no significant impact on the character or visual amenity of the area, and the proposals are in accordance with ALP policy D DM1.

AMENITY OF NEIGHBOURING OCCUPIERS

ALP policy QE SP1 requires all development to contribute positively to the quality of the environment, and ensures that development does not have a significantly negative impact on residential amenity.

The site is in a residential area. The premises has residential neighbours on Cudlow Avenue, and immediate residential neighbours on the upper floors of the shopping parade that 55 - 57 Sea Lane forms part of. There is a terrace used by occupiers of the residential units at 51 - 53 Sea Lane immediately to the north of the site.

The alterations to fenestration and walkway would not impact residential neighbours by way of overbearing, overshadowing or overlooking, and are acceptable in accordance with ALP policy D DM1.

The extractor would be in close proximity of residential properties, and the outlet of the extractor would be within 3.5m of the terrace to the north. Environmental Health raise no objection, but request three conditions. The first of requires a scheme for the extraction and treatment of fumes and odours generation from cooking on the premises. This would ensure that the development does not result in odour which would detrimental impact neighbouring residential amenity, and is in accordance with QE SP1. A condition relating to grease traps for the kitchen has not been attached as there is no application for a change of use.

A further condition has been requested relating to the submission of a scheme for the mitigation of noise impacts. At present, clarification from Environmental Health regarding this condition is awaited, and an update will be made prior to Planning Committee.

Subject to conditions, the proposal would not result in demonstrable harm to residential occupiers, and accords with ALP policy QE SP1.

HERITAGE

Concerns have been raised by residents regarding the proximity to the edge of Rustington Conservation Area and listed buildings at 36, 47 and 49 Sea Lane. Whilst these concerns are likely to relate to the use of 55 - 57 Sea Lane as a restaurant/takeaway rather than to the development proposed, an assessment has been made of the impact of the proposals on designated heritage assets.

The Rustington Conservation Area lies 170m to the north of the site and would not be impacted by the proposals. The listed buildings are a minimum of 16m to the north and front Sea Lane. The development would not be seen in views of the listed buildings, and there would be no impact on their setting.

The proposals preserve the setting of designated heritage assets, in accordance with ALP policy HER DM1 and the NPPF.

SUMMARY

The development complies with the relevant plan policies, and is recommended for approval subject to the following conditions and informatives.

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 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 application based on considerations set out in this report.

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.

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:

- Location Plan
- Site Plan, Photos 038-P-20-003 REVP1
- Site Plan, Existing Ground Floor Plan and Elevations 038-P-20-001 REVP1
- Site Plan, Proposed Ground Floor Plan and Elevations 038-P-20-002 REVP1

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Arun Local Plan policy D DM1.

- 3 Prior to the first operation of the premises, a scheme and maintenance schedule for the extraction and treatment of fumes and odours generated from cooking or any other activity undertaken on the premises, shall be submitted to, and approved in writing by the Local Planning Authority. Any equipment, plant or process provided or undertaken in pursuance of this condition shall be installed prior to the first operation of the premises and shall thereafter be operated and retained in compliance with the approved scheme.

The applicant should refer to the following document:
<https://www.ricardo.com/en/resources/control-of-odour-and-noise-from-commercial-kitchen-exhaust-systems>

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

- 4 Prior to first operation of the extractor, a scheme for protecting the existing noise sensitive residential dwellings above and adjacent to the site shall be prepared by a competent person and submitted to and approved in writing by the Local Planning Authority. All works which form part of the scheme shall be completed before the extractor is first used and retained and maintained in perpetuity. The scheme shall be designed to achieve a minimum airborne sound insulation value of 50dB (DnT, w + Ctr) for floors/ceilings and 48dB (DnT, w + Ctr) for walls. The applicant should review the Planning Noise Advice Document - Sussex, November 2023: <https://www.arun.gov.uk/download.cfm?doc=docm93jjm4n19846.pdf&ver=24686>

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

- 5 Based on the information available, this permission is exempt from the requirement to provide a biodiversity gain plan under Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990. The following exemption applies:

This planning permission is de-minimis as the development does not impact an onsite priority habitat and the development impacts less than 25 square metres of onsite habitat that has a biodiversity value greater than zero and less than then 5 metres in length of onsite linear habitat.

Reason: In accordance with Schedule 7A of the Town and Country Planning Act 1990 (as amended).

- 6 INFORMATIVE: This permission does not grant permission for the change of use of 55-57 Sea to a restaurant, and the approval does not confirm the lawfulness of the proposed use. If the applicant wishes to confirm that this use would be lawful, an application for a Lawful Development Certificate would be required.
- 7 INFORMATIVE: The business may be required to submit a Food Registration Form to the Environmental Health Team 28 days before opening. For further advice, please contact: food@arun.gov.uk, 01903 737555, <https://www.arun.gov.uk/food-premises-registration>.
- 8 INFORMATIVE: The use hereby permitted will be required to provide the suitable provision of sanitary accommodation in accordance with the 1976 Local Government Miscellaneous Provisions Act. Please see: <https://www.arun.gov.uk/running-a-food-business#toilets>
- 9 INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). 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 NPPF.