

**Recommendation Report for Application under Section 73 for the Removal or Variation of Conditions
Under a Previously Approved Permission**

REF NO: WA/9/26/S73

LOCATION: Riverwood Centre
Yapton Lane
Walberton
BN18 0AS

PROPOSAL: Variation of condition 1 imposed under WA/25/23/PL relating to extending the use of temporary marquee for a further three years.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION As above.

SITE AREA

RELEVANT SITE HISTORY

WA/25/23/PL	Erection of a marquee for a temporary period of 3 years for use as an alternative venue for Yapton Free Church during April - September inclusively. This application is a Departure from the Development Plan and is in CIL zone 3 (Zero Rated) as other development.	ApproveConditionally 23-06-23
WA/29/24/PL	Erection of a two storey church building with capacity for 340 persons along with creation of associated car park. This application is in CIL zone 3 (zero rated) as other development. This application is a Departure from the Development Plan.	App Cond with S106 16-01-25
WA/42/25/DOC	Approval of details reserved by condition imposed under reference WA/29/24/PL relating to condition number 5 - surface water drainage network, condition number 6 - proposed foul drainage system, condition number 7 - Reptile Mitigation Strategy, condition number 8 - Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP), condition number 9 - Noise Management Plan (NMP) and condition number 10 - Biodiversity Enhancement Strategy.	DOC Approved 14-08-25

WA/29/24/PL has been approved for the construction of a church building with a capacity of 340 persons.

Once construction of the church is completed, this will allow for the removal of the temporary structure that forms part of this application.

A number of pre-commencement conditions relating to WA/29/24/PL have been approved under WA/42/25/DOC.

REPRESENTATIONS

Walberton Parish Council - No comments made.

No representations have been made by any local residents.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Environmental Health - No objection.

- No other comments made.

COMMENTS ON CONSULTATION RESPONSES:

Noted.

POLICY CONTEXT

Designation applicable to site:

- Outside the Built-Up Area Boundary (BUAB).
- Current/Future Flood Zone 1.
- Lidsey Treatment Catchment Area.
- Area of Special Control (Adverts).
- Sharp Sand & Gravel WSCC Mineral Consultation Area.
- CIL Zone 3.
- Pocket of medium surface water flood risk to the immediate west of the structure, and low risk to the east of the structure.

DEVELOPMENT PLAN POLICIES

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 is considered to comply with relevant Development Plan policies in that the retention of the building for another 3-years will not cause harm to the visual qualities of the 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

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

BIODIVERSITY NET GAIN

This application is not liable for Biodiversity Net Gain (BNG) as a S73 application, the original application was not subject to statutory BNG.

CONCLUSIONS

PRINCIPLE

The principle of development was established under WA/25/23/PL for the temporary marquee to house the church between April and September. Condition 1 controlled the time limits for the structure; it was to be removed from the site by 30 June 2026, and the land was to be returned to its former condition. The reason for this condition was to protect the visual amenities of the area due to the marquees likely deterioration.

The applicant seeks the retention of the marquee for a further three year period to allow for the construction of the purpose built church approved under WA/29/24/PL to be completed.

The appearance and qualities of the structure are discussed below.

DESIGN AND VISUAL AMENITY

Arun Local Plan (ALP) Policy D DM1 sets out 13 design aspects against which applications should be assessed. These include character, appearance, impact, layout and scale. Policy HP13 requires new development that will affect the character and appearance of an area to be of high quality design.

The site is a former paddock immediately to the north of a light industrial area. Its character is one of rural commercial and industrial use. It is proposed to retain the marquee in its approved location; no amendments to the size or scale of the existing development are proposed.

The marquee is utilitarian in design and consists of a light steel frame covered by a canvas roof and walls, with clear plastic side windows. The agent has provided photographic evidence of its current

condition. The marquee appears slightly weathered; however, it remains structurally sound and shows no evidence of damage. It is currently in good condition and could reasonably be expected to remain so for a further three year period.

It is well concealed from public viewpoints due to trees, boundary treatments and banking, and is screened from the highway, residential properties and nearby industrial buildings. As such, it does not impact the wider character of the area.

The design remains appropriate for its intended use and is temporary in nature. It is affixed to the ground in a manner that can be easily reversed once the approval period has expired.

The development has not resulted in any significant adverse impact on visual amenity or the character of the area over the past three years and remains compliant with ALP Policy D DM1 and Walberton Neighbourhood Plan Policy HP13.

SUMMARY

The appearance and visual qualities of the marquee have not significantly deteriorated over the last three years of operation. This situation is not expected to change in the immediate future, and the use of the structure will cease once the new building is completed and occupied. The length of time the marquee may remain on site shall be extended by a further three years. Following this period, the use of the land will revert to its former purpose, secured by condition.

Control of the use of the building, including any potential impacts on neighbouring residents through noise pollution, will be secured by condition.

The application is approved 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 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.

SECTION 106 DETAILS

Enter Summary of Details of the Section 106

CIL DETAILS

This application is not CIL liable as other development.

RECOMMENDATION**APPROVE CONDITIONALLY**

- 1 The marquee hereby permitted shall be removed and the land restored to its former condition, or to a condition to be agreed in writing by the Local Planning Authority, on or before the expiration of the period ending on 30 June 2029.

Reasons: The appearance of the marquee, by virtue of its design and construction is likely to deteriorate and become detrimental to the visual amenities of the surrounding area and in order that the Local Planning Authority may be satisfied as to the appearance of the land after the removal of the marquee in accordance with Arun Local Plan policy D DM1.

- 2 The development hereby approved shall be retained in good order in accordance with the following approved plans:

Location Plan - KC 01 A LP

And the plans previously approved under WA/25/23/PL:

Site Plan - SP Rev A

Elevations & Floor Plan - ELEV

Design and Access Statement

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 The temporary marquee hereby permitted shall only be used as an alternative venue for the activities of Yapton Free Church from 1 April to 30 September (inclusive) each year and shall be used for no other purpose unless otherwise agreed in writing by the Local Planning Authority.

Reason: To accord with the details submitted with the application and in the interests of amenity and the environment in accordance with Arun Local Plan policy D DM1.

- 4 No public address system or other amplified sound equipment shall be operated from the site outside the hours of 9am to 7pm Mondays through Saturdays and 10am to 4pm Sundays and Bank Holidays.

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

- 5 **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.