

PLANNING APPLICATION REPORT

**REF NO:** BE/73/22/PL

**LOCATION:** Arun Retail Park, Unit G  
Shripney Road  
Bognor Regis  
PO22 9NF

**PROPOSAL:** External alterations to the existing building associated with the change of use from Class E Restaurant to Sui Generis (consisting of a coffee shop / restaurant selling food and drink for consumption on and off the premises), alterations to car park including the creation of a drive-through lane, reconfiguration of cycle parking, new pedestrian crossings, and the increase in number of car parking spaces, relocation of footpath, removal of 2 x TPO trees (to be replaced), landscaping and associated works.(Resubmission following BE/16/22/PL). This application is in CIL Zone 4 (zero rated) as other development).

<b>SITE AND SURROUNDINGS</b>
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DESCRIPTION OF APPLICATION	As above.
SITE AREA	4265.55 square metres.
TOPOGRAPHY	Predominantly flat.
TREES	Two TPO trees to be removed as a consequence of the development.
BOUNDARY TREATMENT	Shripney Road runs along the north east boundary with 1.8m fencing on the north west boundary with housing behind. Riverside complex is situated to the rear of the site.
SITE CHARACTERISTICS	The site comprises 5 large format retail premises with loading facilities and extensive customer parking. In addition, there are three restaurants and takeaway premises adjacent to the site entrance. The application concerns one of these buildings - a red brick building of contemporary design with a glazed entrance porch and a domed metal sheet roof.
CHARACTER OF LOCALITY	The area surrounding the site on Shripney Road has a primarily commercial character comprising a number of retail parks and supermarket chain stores, as well as a number of individual estates. To the north-west and south-west of the site adjoining uses comprise caravan and park home estates.

<b>RELEVANT SITE HISTORY</b>
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BE/16/22/PL	External alterations to the existing building associated with the change of use from Class E Restaurant to Sui Generis (consisting of a coffee shop / restaurant selling food and drink for consumption on and off the premises),	Withdrawn 19-04-22
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alterations to car park (including the creation of a drive-through lane, reconfiguration of cycle parking, new pedestrian crossings, and the increase in number of car parking spaces), relocation of footpath, removal of 4 x TPO trees (to be replaced), landscaping and associated works. This site is in CIL Zone 4 (Zero Rated) as other development.

BE/25/19/PL	Refurbishment of car park, including minor alterations to car parking spaces, provision of new pedestrian links & other associated physical works	ApproveConditionally 24-05-19
BE/21/19/PL	External alterations to the front elevations of the retail terrace & minor alterations to the site layout	ApproveConditionally 21-05-19
BE/143/16/T	Group 1 adjacent to Pizza Hut - remove 2No. Ash trees to ground level. Raise crown to the various species of retained trees by 3.5m. Group 2/2B adjacent to Burger King - 10No. Ash trees to be removed to ground level. Raise crown to various species of retained trees to 3.5m. T1-T7 Various tree surgery.	Refused 01-12-16

BE/16/22/PL was withdrawn due to the objection of the ADC Tree Officer.

## REPRESENTATIONS

Bersted Parish Council: Objection.

Object to the removal of established TPO'd trees and there is enough drive thru restaurants in the vicinity. Improved accessibility is welcomed.

1 letter of objection:

- Protected trees must be protected, not felled.
- We do not need another coffee outlet, there are 4 places locally already.

## COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted. The issues are discussed in the conclusions.

## CONSULTATIONS

### CONSULTATION RESPONSES RECEIVED:

ADC TREE OFFICER: Recommends the scheme for approval, subject to conditions.

ADC DRAINAGE ENGINEERS: No conditions requested as the application proposes only minor

changes to impermeable areas within the site.

ENVIRONMENT AGENCY: No objection.

WSSC HIGHWAYS (LHA): The proposal would not have a severe impact on the operation of the highway network, therefore it is not contrary to the NPPF (para 111), and there are no transport grounds to resist the proposal on, subject to conditions. Full comments are online (BE/16/22/PL).

WEST SUSSEX FIRE AND RESCUE SERVICE: No objection subject to conditions.

LEISURE AND LANDSCAPE OFFICER: No objection. The landscape improvement/mitigation need to be implemented before occupation/opening of the premises. Maintenance arrangements should be in place within 12 months of completion to ensure establishment of the landscape scheme and replacement of any planting which fails to thrive.

## COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

## POLICY CONTEXT

Designation applicable to site:

Built up area boundary;  
Tree Preservation Order;  
Flood Zone 2,3

## DEVELOPMENT PLAN POLICIES

### [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
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
QESP1	QE SP1 Quality of the Environment
RETDM1	RET DM1 Retail development
SDSP1	SD SP1 Sustainable Development
SDSP2	SD SP2 Built-up Area Boundary
TDM2	T DM2 Public Parking
TSP1	T SP1 Transport and Development
WDM1	W DM1 Water supply and quality
WDM3	W DM3 Sustainable Urban Drainage Systems
WMDM1	WM DM1 Waste Management

<u><a href="#">Bersted Neighbourhood Plan 2014 Policy ES1</a></u>	Design of new development
Bersted Neighbourhood Plan 2014 Policy ES2	Surface water management
Bersted Neighbourhood Plan 2014 Policy ES6	Protection of trees
Bersted Neighbourhood Plan 2014 Policy GA1	Pedestrian and Cycle Connections

**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.

The relevant policy of the Bersted Neighbourhood Development Plan has been taken into account in determining 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 complies with relevant Development Plan policies in that it would have no materially adverse effect on the visual amenities of the locality, nor would it have an adverse impact upon the established character of the surrounding area or highway safety.

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 is in the Bognor Regis Built-up Area Boundary in the Local Plan where development is acceptable in principle in accordance with policy SD SP2 provided it accords with other policies of the Local Plan covering such issues as visual amenity/character, residential amenity and parking. The key policies of the Arun Local Plan are D SP1, D DM1, and T SP1 of the Arun Local Plan and relevant

paragraphs of the NPPF.

Policy D SP1 of the Arun Local Plan requires development to make efficient use of land reflecting the characteristics of the site and local area and policy D DM1 states that a high standard of architectural principles should be demonstrate and the proposed development should have a minimal impact to users and occupiers of nearby properties and land.

Regard should be had to policy SD SP1 of the Arun Local Plan which states "When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework (NPPF)." Para 120 (d) of the NPPF states that planning policies and decisions should "promote and support" the development of under-utilised land and buildings. Paragraph 124(d) NPPF requires planning policies and decisions to support development that makes efficient use of land, considering the desirability of maintaining an area's prevailing character and setting.

The proposal is for the re-occupation of a vacant unit. The site is easily accessible from the highway network and by public transport and makes efficient use of land by bringing a vacant unit back into a use, reflecting the characteristics the site. Such an approach is supported by policies SD SP1 and SD SP2 of the Arun Local Plan and NPPF.

#### CHANGE OF USE:

ALP policy RET DM1 seeks to maintain the existing hierarchy of retail centres in Arun and requires a high standard of design, the scheme is easily accessible by the highway network and public transport, the scheme includes provision for access by cycle and on foot and appropriate provision to enable access for people with disabilities.

This application seeks the change of use of the existing restaurant unit (Use Class E(b)) to a Sui Generis use (consisting of a coffee shop / restaurant selling food and drink for consumption on and off the premises alongside with alterations to the wider car park at the Retail Park,

Whilst Bersted Parish Council expressed disagreement with the change of use, pointing out the number of drive thru restaurants in the vicinity, there are no policies to prevent changes of use from E(b) to Sui Generis especially in area of retail park, outside of town centre. The use is very similar in nature to the existing so no significant adverse implications are anticipated from the proposed change of use. Further, the applicant in their Planning Statement clarifies: 'although the proposals seek the change of use from its existing restaurant use, it is anticipated that only around 15% of total sales will comprise the sale of hot food for consumption off the premises, and as such cannot be regarded as Tim Horton's (the operators) primary business.'

The change of use is acceptable and it would be in general compliance with the ALP policy RET DM1.

#### CHARACTER OF THE AREA:

Policy D SP1 "Design" states: "All development proposals should seek to make efficient use of land but reflect the characteristics of the site and local area in their layout, landscaping, density, mix, scale, massing, character, materials, finish and architectural details.

Policy D DM1 of the Arun Local Plan requires proposals to make the best possible use of the available land by reflecting or improving upon the character of the site and the surrounding area and Policy D DM4(a) expects the extension or alteration of existing buildings to sympathetically relate to and visually integrate with the existing building in siting, massing, design, form, scale and materials.

the development will see an increase in vehicular movements, modelling demonstrates it will continue to operate within theoretical operating capacity, therefore the impact is not considered to be severe.

An area of highway verge adjacent to the A29 is required to allow for the 'drive thru' facility and will require relocation of an existing totem sign which is not shown in the application.

The proposals would provide a safe and suitable access, adequate parking, and would not give rise to unacceptable highways safety or operation impacts.

The proposal would satisfy policies T SP1 and T DM2 of the Arun Local Plan and guidance on highways in the NPPF.

#### PROTECTION OF TREES:

Paragraph 131 NPPF highlights the important contribution which trees make to the character and quality of urban environments and can help mitigate and adapt to climate change. Planning policies and decisions should ensure that appropriate measures are in place to secure the long-term maintenance of newly planted trees, and that existing trees are retained wherever possible.

Policy ENV DM3 of the Local Plan in section 17.3.1 underlines the importance of trees as producers of oxygen and in urban settings groups of trees can contribute significantly to the successful integration of new dwellings into the landscape. The retention of mature trees can contribute to amenity and more attractive developments as well as retaining important wildlife habitats and should be considered at the design stage of all developments.

The BNDP policy ES6 points out the contribution of trees to the Parish play areas and residential properties. The removal of trees to make way for development can completely change the amenities of a road and must be resisted.

The development would result in the removal of 2 x TPO trees, and the applicant have employed Aspect Arboriculture Ltd. to prepare an Arboricultural Impact Assessment (AIA) inclusive of Tree Constraints Plan and a Tree Protection Plan for this project.

The ADC Tree Officer has reviewed the AIA data and confirmed that it is comprehensive and accords with the requirements of BS5837:2012. He further agrees with the retention category ratings and the necessity for removal of two Category U trees. Finally, he confirms that the replacement tree planting detailed on the Landscape Plan, dwg. no. 7610.LP.1.0 Rev F, would be an appropriate compensation and that the development is achievable without undue detriment to the retained on-site trees, provided there is adequate site supervision at key stages by the project arboriculturist. This can be secured with a suitably worded planning condition. The scheme is therefore recommended for approval.

It is noted that Bersted Parish Council has objected to the removal of trees with a TPO, however, whilst the development would cause the loss of 2 TPO trees, the applicant has provided a comprehensive view of tree issues arising from the proposals and offered an appropriate scheme of mitigation for the modest tree loss. As such it would comply with policies ENV DM3 and ENV DM4 of the Arun Local Plan, policy ES6 of the Bersted Neighbourhood Development Plan and NPPF's paragraph 131.

#### FLOODING ISSUES:

W DM2 of the Arun Local Plan states development in areas at risk from flooding (as identified by the EA) will only be permitted following compliance with listed criteria. One of these criteria is the submission of a sequential test in accordance with the NPPF. Flooding is likely to increase in the future, particularly due

to rising sea levels, increased surface water and from rivers.

According to Environment Agency Flood Risk Map the site falls in Flood Zone 2 (defined as land having a 1 in 100 or greater annual probability of river flooding) and Flood Zone 3 (defined as land having a 1 in 100 and 1 in 1,000 annual probability of river flooding). The Climate Change Data shows the entire area to be Flood Zone 3a by 2031, 2061 and 2111 (Future Flood Risk).

The application is supported by a full Flood Risk Assessment that has been reviewed by the Environmental Agency, who have confirmed that they have no objection to the proposals. It is considered that the proposals are compliant with Policy W DM2 and the NPPF and therefore acceptable in this regard.

#### **BIODIVERSITY:**

ALP policy ENV DM5 states: "Development schemes shall, in the first instance, seek to achieve a net gain in biodiversity and protect existing habitats on site. They shall also however incorporate elements of biodiversity including green walls, roofs, bat and bird boxes as well as landscape features minimising adverse impacts on existing habitats (whether designated or not)."

A Preliminary Ecological Appraisal (PEA) dated Jun 2022 was submitted. This shows that trees to be removed (T4 and T5) appear to provide negligible to low suitability to support roosting bats, in the form of single opportunistic individuals. Mitigation measures and ecological enhancements are set out in the PEA to avoid or minimise adverse effects on retained habitats and associated fauna and suggested enhancements like flowering lawn area created at the north-east of the site and areas of existing amenity grassland alongside with new areas of shrub planting are proposed as part of the landscape planting scheme, which includes a high proportion of plants for pollinators.

The scheme provides details of biodiversity net gain and protects habitats on site in accordance with the ALP policy ENV DM5 and is considered to be satisfactory. The opportunity to increase biodiversity and mitigation measures will be secured via condition.

#### **SUMMARY**

The development is consistent with the last use of the building and the established pattern of uses in the area. The proposed changes to the building and the site layout would not compromise the visual amenities or character of the area and there would be no adverse implications for highway safety. The proposal complies with development plan policies. The recommendation to approve is made subject to conditions/informatives.

<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.

## CIL DETAILS

This application is in CIL Zone 4 (zero rated) as other development).

## 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:

Dwg No URB DT 08 00 01 Rev D01, SITE LOCATION PLAN;  
Dwg No URB DT 08 00 03 Rev D03, SITE BLOCK PLAN DETAIL LOCATIONS;  
Dwg No URB DT 08 00 05 Rev D00, PROPOSED UNIT PLANS AND ELEVATIONS;  
Dwg No URB DT 08 00 06 Rev D00, WORKS TO DRIVE THRU AREA - AS PROPOSED;  
Dwg No URB DT 08 00 07 Rev D04, ALTERATION WORKS TO SITE LAYOUT & PARKING;  
Dwg No URB DT 08 00 08 Rev D04, PARKING LAYOUT CHANGES B&Q / RETAIL TERRACE & SERVICE YARD;  
Dwg No URB DT 08 00 09 Rev D03, SITE BLOCK PLAN AS PROPOSED;  
Dwg No 7610.LP.1.0, LANDSCAPE PLAN.

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 No part of the development shall be first used until covered and secure cycle parking spaces have been provided in accordance with the proposed plan. The facilities shall thereafter be retained in perpetuity.

Reason: To provide alternative travel options to the use of the car in accordance with policy T SP1 of the Arun Local Plan.

- 4 No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. 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,



- the anticipated number, frequency and types of vehicles used during construction,
- the method of access and routing of vehicles during construction,
- the parking of vehicles by site operatives and visitors,
- the loading and unloading of plant, materials and waste,
- the storage of plant and materials used in construction of the development,
- the erection and maintenance of security hoarding,
- the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- details of public engagement both prior to and during construction works.

Reason: In the interests of highway safety and the amenities of the area in accordance with policy TSP1 of the Arun Local Plan.

- 5 Before the site is occupied or any machinery is introduced to the site or demolition work or construction work or alterations to existing ground levels takes place a PRE-COMMENCEMENT Site Meeting is to take place between the Planning Authority's Tree Officer and the Arboricultural Expert representing the site owner(s):
- at this meeting all protective fencing will be inspected to verify they are 'Fit for Purpose' as required under British Standard 5837:2012 and have been erected and positioned exactly as shown on the Tree Protection Plan, dwg. no. 11069 TPP 01 Rev F, June 2022.

A schedule of Site Monitoring/Supervision visits and Reporting Procedures prepared by an Arboricultural Expert will be required and their extent will be agreed on at the site meeting to the satisfaction of the Planning Authority's Tree Officer.

Reasons: To comply with BS5837:2012 and ensure the retention and maintenance of trees and vegetation which are an important feature of the area, in accordance with Policies D DM1 and ENV DM4 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition as the protection and retention of trees goes to the heart of the planning permission.

- 6 All activity at the site is to be carried out in strict accordance with: - Arboricultural Impact Assessment, Aspect Arboriculture Ltd., ref. 11069\_AIA.001 Rev F, June 2022.

If there is deemed to be a need for any Utility Service Route connections to bisect retained tree Root Protection Areas/Zones, then prior to their installation a Method Statement prepared by an Arboricultural Expert must be submitted that stipulates how this can be achieved without adverse impact on tree roots. Written approval and confirmation of acceptance of this Methodology must be issued before any works are commenced out on site.

Reasons: To comply with BS5837:2012 and to ensure that retained trees are afforded due respect and appropriate levels of protection such that their ongoing health and vitality is not compromised, and they can continue to enhance the landscape and amenity of the area in accordance with policy ENV DM4 of the Arun Local Plan.

- 7 The development shall be carried out in full accordance with the recommended biodiversity enhancement measures listed in the Preliminary Ecological Appraisal dated June 2022 and retained in perpetuity. The landscape improvement/mitigation/tree planting works shown on Landscape Plan 7610.LP.1.0 Rev F must be implemented before the use hereby approved commences.

Reason: To enhance the environment for local wildlife and result in net biodiversity gain, in

accordance with the relevant legislation and policy ENV DM5 of the Arun Local Plan.

- 8 1) Prior to the commencement of the development details showing the proposed location of the required fire hydrants shall be submitted to and approved in writing by the Local Planning Authority in consultation with West Sussex County Council's Fire and Rescue Service. These approvals shall not be unreasonably withheld or delayed.

2) Prior to the first occupation of unit forming part of the proposed development that they will at their own expense install the required fire hydrants (or in a phased programme if a large development) in the approved location to BS 750 standards or stored water supply and arrange for their connection to a water supply which is appropriate in terms of both pressure and volume for the purposes of firefighting.

The fire hydrant shall thereafter be maintained as part of the development by the water undertaker at the expense of the Fire and Rescue Service if adopted as part of the public mains supply (Fire Services Act 2004) or by the owner/occupier if the installation is retained as a private network. As part of the Building Regulations 2004, adequate access for firefighting vehicles and equipment from the public highway must be available and may require additional works on or off site, particularly in very large developments. (BS5588 Part B 5) for further information please contact the Fire and Rescue Service.

If a requirement for additional water supply is identified by the Fire and Rescue Service and is subsequently not supplied, there is an increased risk for the Service to control a potential fire. It is therefore recommended that the hydrant condition is implemented.

Reason: In the interests of amenity and in accordance with policy INF SP1 and TSP1 of the Arun Local Plan 2011-2031 and in accordance with The Fire & Rescue Service Act 2004.

- 9 INFORMATIVE: The applicant is advised that the existing public highway to be incorporated into the development must be the subject of a Stopping Up Order. This process must be successfully completed prior to any highway land being enclosed within the development. The applicant should contact the Department for Transport's National Transport Casework Team in order to commence this process:

National Transport Casework Team  
Tyneside House  
Skinnerburn Road  
Newcastle Business Park  
Newcastle upon Tyne  
NE4 7AR

<https://www.gov.uk/government/publications/stopping-up-and-diversion-of-highways>

- 10 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.

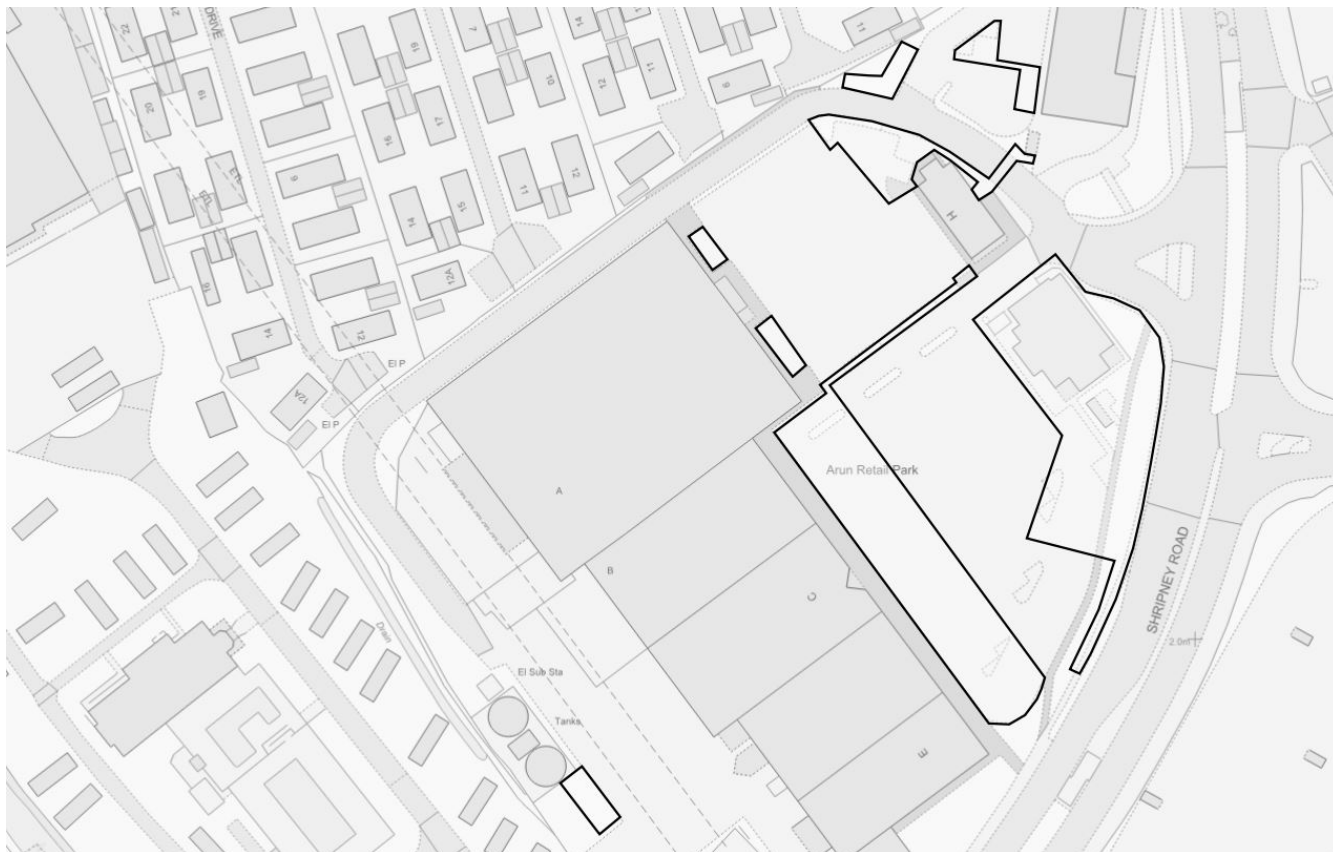
## **BACKGROUND PAPERS**

[The documents relating to this application can be viewed on the Arun District Council website by going](#)

**BE/73/22/PL**

to <https://www.arun.gov.uk/weekly-lists> and entering the application reference or directly by clicking on [this link](#).

**BE/73/22/PL - Indicative Location Plan (Do not Scale or Copy)**  
**(All plans face north unless otherwise indicated with a north point)**



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