

PLANNING APPLICATION REPORT

**REF NO:** LU/186/24/S73

**LOCATION:** Mewsbrook Park,  
Trading Kiosk  
Hendon Avenue  
Littlehampton  
BN16 2LX

**PROPOSAL:** Variation of condition 2 and 7 imposed under LU/158/22/PL relating to approved plans and rewording of period for decentralised, renewable, low carbon energy supply system to a 12 month period and removal of condition 8 relating to full details of biodiversity (green/brown) roof.

**SITE AND SURROUNDINGS**

**DESCRIPTION OF APPLICATION** This application seeks to vary condition 2 relating to the plans of application reference LU/158/22/PL, to remove condition 8 relating to biodiversity net gain in favour of alternative details, and to vary condition 7 by extending the timeline for the installation of solar panels.

**RELEVANT SITE HISTORY**

|              |  |                                  |
|--------------|--|----------------------------------|
| LU/158/22/PL | Demolition of existing cafe and change of use of a public WC and extension of the same to form extended detached single storey cafe. This site is in CIL Zone 5 (Zero Rated) as other development. | ApproveConditionally<br>25-08-22 |
|--------------|--|----------------------------------|

LU/158/22/PL granted approval for the demolition of a cafe, and the change of use and extension of a Public WC to form a new cafe.

**REPRESENTATIONS**

Littlehampton Town Council (07/11/24) - Objection:  
- The built structure is different to the original application and it is unclear if that has been approved and relaxing the planning conditions of the prior approval is viewed as setting a dangerous precedent.

Littlehampton Town Council (13/08/24) - No objection:  
- The committee would appreciate confirmation that the public toilets will remain accessible outside the opening hours of the Cafe.

No other representations.

**COMMENTS ON REPRESENTATIONS RECEIVED:**

Noted. This application pertains solely to the variations proposed and does not include the opening hours of the site or access to toilets out of opening hours. The loss of the use of the public conveniences outside of the standard opening hours of the new cafe, was accepted at the original application stage (LU/158/22/PL), in part, on the basis that the Council's Cabinet had made a decision to close the public conveniences in question in 2018.

**CONSULTATIONS**

**CONSULTATION RESPONSES RECEIVED:**

Ecologist (07/11/24):

- No objection to the use of ground level planting and ecological features as an alternative to the green roof as this is preferable.
- Before recommending approval, sought additional details regarding the species proposed for planting.

Ecologist (08/11/24):

- Species proposed are acceptable. Recommend approval.

**COMMENTS ON CONSULTATION RESPONSES:**

Noted.

**POLICY CONTEXT**

Designation applicable to site:  
 Outside Built-Up Area Boundary  
 Flood Zone 3  
 Designated Open Space

**DEVELOPMENT PLAN POLICIES**

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

|        |  |
|--------|--|
| DSP1   | D SP1 Design                                 |
| DDM1   | D DM1 Aspects of form and design quality     |
| ECCSP2 | ECC SP2 Energy and climate change mitigation |
| ENVDM5 | ENV DM5 Development and biodiversity         |

**PLANNING POLICY GUIDANCE:**

|      |                                     |
|------|-------------------------------------|
| NPPF | National Planning Policy Framework  |
| NPPG | National Planning Practice Guidance |

**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 building remains of an acceptable visual amenity and the proposal would achieve a biodiversity net gain, and utilise adequate renewable energy sources.

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

### MATTERS FOR CONSIDERATION

This application seeks to vary condition 2 (the approved plans), remove condition 8 (pertaining to the provision of a green roof) in favour of biodiversity net gain details provided, and to vary condition 7 (renewable energy sources) to impose a 12-month timeline for the installation of solar panels.

This application is retrospective insofar as the development has been implemented in accordance with the plans submitted, with the exception of the solar panels and biodiversity net gain matters which are matters to be directly considered by this application. A schedule of materials was approved under a discharge of conditions application (LU/157/24/DOC). As the majority of the works have been completed, and materials approved, there is no need to re-impose conditions 3 and 5 (unexpected contamination and approval of materials) of the original permission.

Since the determination of the original permission, condition 6 (construction hours) has been revised to not include reference to 'noisy works' on Sundays, as this is a subjective term and difficult to enforce. Reference to 'noisy works' has been replaced with preventing works on Sundays altogether.

All other matters approved by LU/158/22/PL remain as approved and are not affected by this application.

### DESIGN & VISUAL AMENITY

Variations to the plans include the replacement of vertical cladding with horizontal cladding and application of the cladding to the south elevation, a slightly reduced service hatch to the north elevation, loss of the green roof, altered roof shape, revised solar panel layout, an alternative and revised fenestration and openings layout, and the removal of the proposed seating area in favour of retaining a seating area to the north of the site that was originally proposed for removal.

The revisions to the design do not alter the scale or general form of the building, but they do result in a building of a varied design, nonetheless. The alterations have not resulted in a building of an unacceptable visual amenity, nor does the building compromise the character of the area.

The amended plans remain acceptable and in accordance with policy D SP1 & D DM1 of the ALP.

#### **BIODIVERSITY NET GAIN**

The original application proposed to use a green roof to offset the loss of grass and planting to the east of the cafe and achieve biodiversity improvements in line with Policy ENV DM5 of the ALP. Green roofs are often difficult to maintain, and ground-level planting and ecological enhancement schemes are generally preferable, being more accessible for wildlife and more visually accessible to users of the site. Whilst the green roof provided a suitable option for achieving biodiversity improvements on site under the original permission, it is understood that it has proven difficult to bring this feature forward and ensure it can be suitably maintained. An alternative scheme is proposed for planting and ecological enhancement features to be provided at ground-level to the east and southeast of the building. This would replace what was proposed to be a hardstanding and seating area to the east of the cafe, and to retain the pre-existing seating area to the north of the cafe.

It would not be suitable to simply remove condition 8 (relating to the green roof and biodiversity net gain requirements of the permission) without imposing a new condition to secure the alternative biodiversity net gain measures proposed. A timeline of six months, or within the next planting season, whichever is sooner, has been imposed.

The applicant produced a planting schedule that identifies the various features to be planted on site. The Council's Ecologist is satisfied that the revised scheme would achieve a biodiversity net gain in accordance with Policy ENV DM5 of the ALP and is an acceptable alternative to the originally approved green-roof scheme.

The proposal is in accordance with Policy ENV DM5 of the ALP. Condition 8 (pertaining to green roof and biodiversity net gain) can be removed in favour of a condition with another that secures the biodiversity net gain scheme now proposed.

#### **ENERGY EFFICIENCY**

Condition 7 (renewable energy sources) of the original permission required the applicant to submit a scheme for the use of decentralised, renewable, and low carbon energy supply systems and subsequently installed prior to occupation and retained thereafter in good working order. The cafe has opened without the approval or installation of such a scheme. The reasoning provided for non-compliance is the rise in building costs since the approval. This application has provided a scheme for the use of solar panels on the roof which is acceptable in principle. The amended solar panel details are acceptable provided it is implemented within 12 months of this decision.

Subject to the compliance with the new condition, the proposal will be in accordance with policy ECC SP2 of the ALP.

#### **SUMMARY**

The proposal is in accordance with relevant Development Plan policies and as such, it is recommended for approval subject to the following conditions and informatives.

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| <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.

#### **RECOMMENDATION**

APPROVE CONDITIONALLY

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date of the original permission granted under LU/158/22/PL (25/08/22).

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 & documents:

- Elevations, Floor Plans, Site plan & Location Plan 149/ 01, Revision C.
- Email correspondence identifying proposed planting schedule (Dated: 8th November 2024).

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Arun Local Plan policies D SP1, D DM1, ECC SP2 & ENV DM5.

- 3 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated June 2022 by Innervision Design Ltd and the mitigation measures detailed within it.

Reason: To reduce the risk and impact of flooding on the proposed development in accordance with policies W SP1 and W DM2 of the Arun Local Plan.

- 4 No demolition/construction activities shall take place other than from 08:00 hours until 18:00 hours (Monday to Friday) and from 08:00 hours until 13:00 hours (Saturday) with no work on Sunday or Bank/Public Holidays.

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

5 The solar panels identified within the 'Energize solar quotation' document (Accepted: 23/07/24) shall be installed within 12 months of this decision.

Reason: To ensure that the development is energy efficient and in accordance with policy ECC SP2 of the Arun Local Plan.

6 The planting and ecological enhancement measures identified within the 'Elevations, Floor Plans, Site plan & Location Plan 149/ 01, Revision C', and the planting schedule set out in 'Email correspondence identifying proposed planting schedule (Dated: 8th November 2024)' hereby approved shall be carried out in the next planting season.

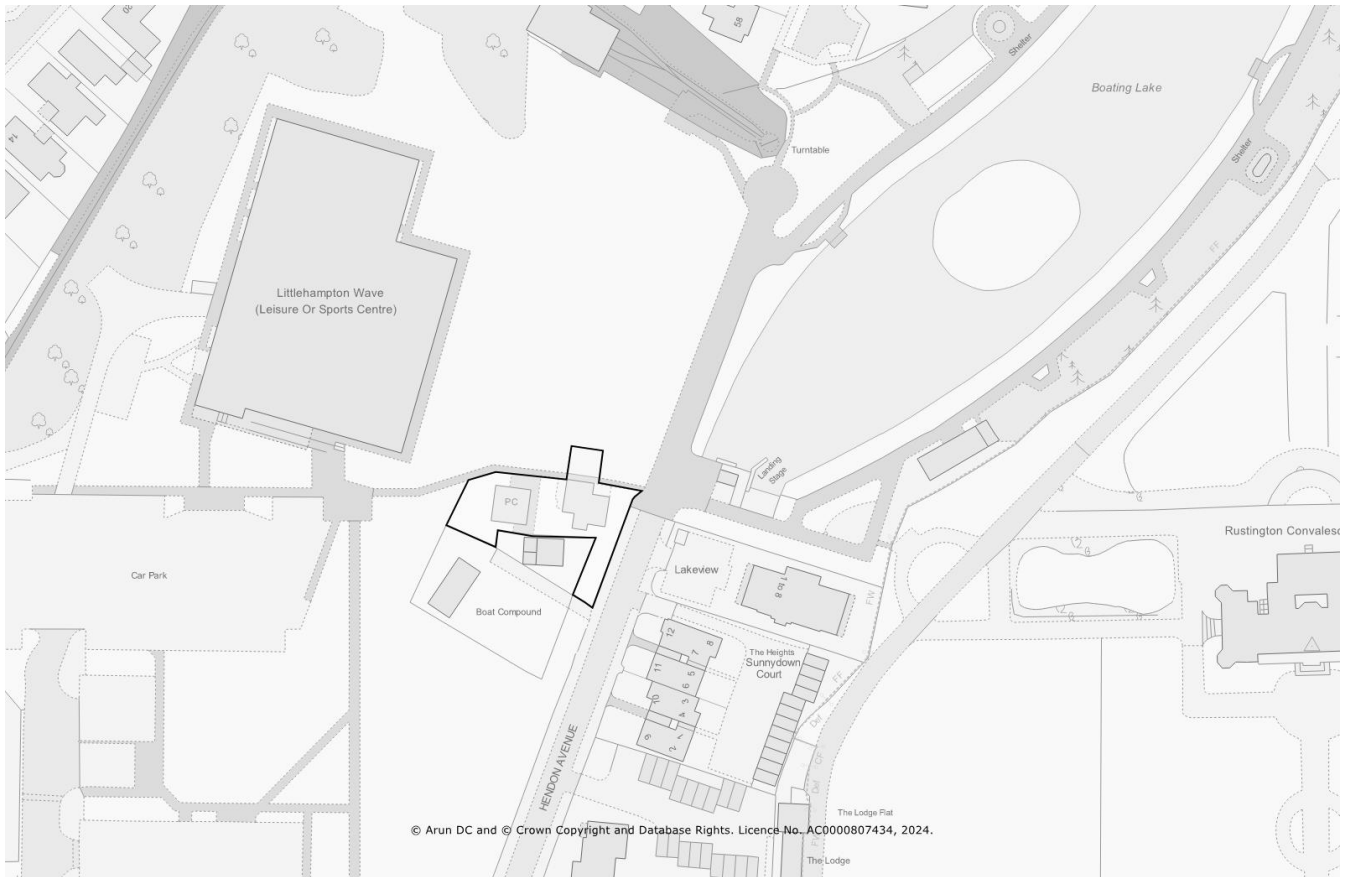
Reason: For the avoidance of doubt and to ensure the proposal achieves a biodiversity net gain in accordance with policy ENV DM5 of the Arun Local Plan.

7 **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 National Planning Policy Framework.

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| <b>BACKGROUND PAPERS</b> |
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[The documents relating to this application can be viewed on the Arun District Council website by going to https://www.arun.gov.uk/weekly-lists and entering the application reference or directly by clicking on this link.](https://www.arun.gov.uk/weekly-lists)

**LU/186/24/S73 - Indicative Location Plan (Do not Scale or Copy)**  
**(All plans face north unless otherwise indicated with a north point)**



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