

Parish: Birdham	Ward: The Witterings
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**BI/19/01051/FUL**

**Proposal** Change of use of the land from ancillary boat storage to the Birdham Pool marina to A3 cafe with associated decking, seating, and facilities areas and mobile tea hut (retrospective).

**Site** Scuttlebutt Café, Birdham Pool, The Causeway, Birdham, West Sussex

**Map Ref** (E) 482453 (N) 100946

**Applicant** Tim Sturton-Davies

### RECOMMENDATION TO PERMIT



**NOT TO  
SCALE**

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## **1.0 Reason for Committee Referral**

Parish Objection - Officer recommends Permit

## **2.0 The Site and Surroundings**

- 2.1 The application site is situated on a small parcel of land located on the southern side of the Birdham Pool Marina. It is located within an area used for boat storage. Immediately to the south lies the boundary of the Birdham Pool Marina which is bounded by a mature natural boundary, that provides some screening of the site to the south. To the north lies the private road that serves the Birdham Pool Marina and houses nearby. This road is also a Public Right of Way (PROW) which is linked to the Chichester Marina. Immediately north of the road lies parking spaces for birth holders and pontoon access. The main buildings within the Birdham Pool Marina are located to the northwest of the café.

## **3.0 The Proposal**

- 3.1 This application proposes the; change of use of land from boat storage ancillary to Birdham Pool Marina to an A3 cafe with associated decking, seating, and facilities areas and mobile tea hut. This is a retrospective application.
- 3.2 The land is currently being used for the stationing of a small timber hut, affixed to a trailer, that forms the serving facilities for the Scuttlebutt Café. There is a roped off timber decking area to the north of the trailer and a timber enclosure to secure a facilities area (bin storage). The café hut measures; 2.3m high x 3.4 m x 1.8 m and the total area of land subject to this change of use measures 19 sqm.

## **4.0 History**

13/00316/FUL - Conversion of building to 4 no. dwellings, replacement workshop building, re-arrangement of existing boatyard. Installation of replacement modern crane. Re-arrangement of existing marina layout. Relocation of marina office.  
STATUS: REF 19th June 2014 – Allowed at Appeal

18/01651/FUL - The installation of infrastructure and associated engineering works to accommodate 9 houseboats to be used as holiday homes only, including the erection of a raised walkway, moorings and associated car parking.  
STATUS: REF 29th October 2018

## **5.0 Constraints**

Listed Building	No
Conservation Area	No
Countryside	Yes
AONB	Yes
Tree Preservation Order	No
EA Flood Zone 2	Yes
EA Flood Zone 3	Yes

## **6.0 Representations and Consultations**

### **6.1 Parish Council**

The Parish Council OBJECTS to this application most strongly for the following reasons;-

- 1 - This further development into a sensitive area which could well have an incremental, and therefore detrimental, effect on the AONB.
- 2 - Intrusion into the Northern side of the causeway.
- 3 - Reduction in parking facilities.
- 4 - Loss of land to the marina for marina purposes.
- 5 - Potential for alcohol usage in what is effectively a residential area.

### **Chichester Harbour Conservancy**

### **6.2 The Conservancy's final resolution on this matter is –**

That seasonal planning permission be granted, subject to the following planning conditions –

1. That seasonal use for the cafe shall only operate between 1 April and 31 August each calendar year, with the mobile café unit removed from the site in the period 1 September to 31 March in any calendar year;
2. That the hours of operation of the café shall be restricted to 08.00 to 20.00 hours daily;
3. That no awnings, canopies or other temporary structures be allowed to be deployed over the seating area, without the further written permission of the local planning authority; and,

4. That no external lighting shall be installed on the decking area or affixed to the mobile café unit or refuse enclosure.”

Some of our Members expressed concern that if approved, this would be the first physical development permitted south of The Causeway, which might set a precedent for further development such as a permanent structure to cover the seating area. It was noted that a mobile refreshments service also visits the boatyard to supply sandwiches and drinks to workers.

### WSCC Highways

- 6.3 The Causeway is a private highway not maintained by WSCC. Consequently, these Comments are for your advice only.

The site is located on The Causeway at Birdham Pool, access to The Causeway is accessed using Court Barn Lane which is also privately maintained for the majority of the route. The southern portion of Court Barn Lane is maintained by WSCC and adjoins Church Lane via two separate access points.

Court Barn Lane is a single track rural lane subject to 15mph speed restrictions; the road is also subject to traffic calming in the form of speed humps along the route. Established passing places are located along the length of the road allowing two vehicles to pass should conflict occur.

Visibility from Court Barn Lane onto Church Lane is sufficient for the use and from observation of the most recent Sussex Police Collision data, there have been no highways collisions or personal injury claims at the access points to flag an existing concern with the use.

The café has been stated as primarily serving workers and berth holders of the Marina but also caters to passing walkers and visitors. The site has been in use in this manner for a year and there have been no known highways safety concerns with the practise.

The road and associated application site is privately maintained. It is unclear how any associated parking would be accommodated however it is not considered that due to the nature of the tea hut, a large number of vehicular movements would be generated. It is also not considered that parking would overspill onto the Publicly Maintained Highway as a result of the proposal.

It is anticipated that movements to the tea hut would be made more by pass-by or linked movements either on foot or from workers at the site. As such will generally generate a limited number of new vehicle trips on the road network.

The Local Planning Authority may however wish to monitor how much on-street car parking does occur as result of this application to ascertain whether it is having an adverse effect.

The WSCC PROW officer will be providing comments in due course regarding the nearby Footpath FP37.

#### INFORMATIVE

The applicant is advised to contact the proprietor of The Causeway to obtain formal approval to carry out the works accessed via the private lane.

#### WSCC PROW

- 6.4 Public right of way (PROW) numbered FP37 exists over the whole width of the causeway road adjacent to Birdham Pool. The proposed application is sited to an area to the south of the causeway and does not directly impact on the public footpath. PROW has no objection to this application however; we would like to bring the following comments to the applicant's attention and for them to be taking into consideration.

Safe and convenient public access is to be available at all times across the full width of the PROW, which may be wider than the available and used route. In this case the width of FP37 over the length adjacent to Birdham Pool is considered to be the whole width of the causeway road.

The applicant is advised that a public access right has precedence over a private access right. Where a PROW runs along a route also used for private access purposes, usually for private vehicle access, this shared use has the potential for accident or injury – the applicant must consider how access is managed so the public is not endangered or inconvenienced.

The path is not to be obstructed by vehicles, plant, scaffolding or the temporary storage of materials and / or chemicals during any works. These will constitute an offence of obstruction under the Highways Act 1980.

No new structures, such as gates and stiles, are to be installed within the width of the PROW without the prior consent of the WSCC PROW Team. These will constitute an offence of obstruction under the Highways Act 1980.

Any alteration to or replacement of the existing boundary with the PROW, or the erection of new fence lines, must be done in consultation with the WSCC PROW Team to ensure the legal width of the path is not reduced and there is no unlawful encroachment.

It is an offence to damage the surface of a PROW without the prior consent of the WSCC PROW Team. The applicant must supply a specification and secure the approval of the WSCC PROW Team before works affecting the PROW begin, even if the surface is to be improved. Where a PROW surface is damaged and there was no prior consent, the applicant will be liable and required to make good the surface to a standard satisfactory to the WSCC PROW Team.

Some properties have private rights over them for the benefit of a particular individual or property; for example, a landowner may have the right to drive over a neighbour's track to gain access to property. This right of access is granted to individuals and / or properties only and does not extend to the public. The WSCC PROW Team does not hold records of private rights of access; the applicant is encouraged to check that no private access rights will be detrimentally affected by this proposal.

### Natural England

6.5 Natural England has no comments to make on this application.

Natural England has not assessed this application for impacts on protected species. Natural England has published [Standing Advice](#) which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

Natural England and the Forestry Commission have also published standing advice on [ancient woodland and veteran trees](#) which you can use to assess any impacts on ancient woodland.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

For applications within the Chichester Harbour Area of Outstanding Natural Beauty (AONB) we recommend you seek the advice of the Chichester Harbour Conservancy.

We recommend referring to our SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available online at <https://www.gov.uk/guidance/local-planning-authorities-getenvironmental-advice>.

#### 6.6 11 x Third Party representations in objection, concerning;

- Winter boat storage space is being restricted.
- More pressure on the natural environment of the pool with its unique setting and wildlife.
- Ugly construction which stands out like a sore thumb in the marine surroundings.
- There are no toilets and hygiene facilities for customers and staff.
- The development of this site would be the first development ever on the upstream side of the causeway at Birdham Pool. This is a sensitive part of the AONB and hence this should not be allowed.
- Design - this is inappropriate for the AONB.
- Car Parking - none is provided for customers.
- Increased activity and pressure on parking.
- Retail use is not supported by current DP.
- Boathouse Cafe is less than 5 mins walk away and a small village does not need 2 cafes.
- Further commercialisation of an AONB.
- Increase in traffic generation, which has already become a problem in court barn lane as the boat yard has continued to be developed (multiple road resurfacings required, lack of pull over places resulting in continual breaking and acceleration noise pollution, substantial traffic volumes making less safe to walkers and children).
- Increased litter pollution.
- This will represent a change of use for what is exclusively a marine development- not a retail enterprise.
- Birdham Pool is the most iconic part of Birdham. The setting of the Pool within the AONB and its history is what makes it the most treasured asset and worthy of Heritage status and all the associated protections and considerations.
- Trading hours applied (11pm in the week, 10 pm on Sundays) would be harmful in this location.

#### 6.7 24 x Third Party representations in support, concerning;

- Low key and fits well into the surroundings.
- Ideally located for the harbour side footpath.
- Parking for user of the Marina only and is clearly designated.
- Use has tidied up this part of the site that was previously used to store various boat paraphernalia.
- The café provides a much needed pit stop for walkers, cyclists and visitors in general; it also provides an essential service to boaters and marina workers.
- The unobtrusive timber cafe building and timber deck take up an insignificant portion of the marina yard that was too narrow for boat storage.
- The siting of the cafe has improved the character of the area, as this corner of the marina with the septic tank and general dumping was always somewhat of an eyesore.

- Creates jobs and enhances the locality.
- The cafe is a useful amenity and an asset to the community both socially and economically.
- The sister cafe, in Itchenor Ship yard, has become an important focus for the community and is very well run and managed.

6.8 1 x Third Party representation neither in support, nor objecting:

- Scuttlebutt Cafe could be given planning permission for the summer months only - this would ensure that the Marina remains a working boatyard.

6.9 Applicant/Agent's Supporting Information

16/07/2019

Following receipt of comments from my client I can provide the following information:

1 - The letter from the marina which accompanies the application makes clear that this small parcel of land was an underused corner of boat storage. At the most it could have stored one small boat so its effect on overall storage for the marina is negligible.

2 - Customers of the cafe have use of the shipyard toilet facilities (not berth holder facilities). These are located behind the main offices in the corner of the yard. They are a maximum of a 2 minute walk away.

3 - Again, the letter from the marina which accompanies the application makes clear that there is a lease. The marina did not have a cafe and they wanted one for both employees and berth holders, but did not want the responsibility of having to run one so the lease is the best option for them.

4 - This is a very seasonal business and, in order to ensure its success and longevity, additional opening hours are required, to enable them to host occasional events etc. The applicant would be happy to compromise on the hours applied for but would ask that they be 8am - 2130 PM everyday inc Sundays and Bank Holidays. It is not his intention to open for these hours every day but require permission, so that we are able to, on occasion. The cafe is not a licensed premises so I do not consider there to be an issue with possible noise disturbance to neighbours.



## PC Objection.

The applicant cannot develop the cafe incrementally - the site it is located on land which contains a southern water access point which cannot be built on. The wooden structures have been put together to fit in with the other marina structures nearby and be in-keeping with the surroundings. There is no allocated parking for cafe customers and the site remains berth holders and contractors only. The majority of customers arrive on foot from the marina itself. As stated above, this space was under-utilised by the Marina and only represents a very small percentage of the total footprint of the marina. Finally, with regard to alcohol use - this not a licensed premises.

## CHC Comments

The applicant's lease is not seasonal and as such would not want to stop operating for 6 months of the year. There are annual events at the marina such as the Classic Boat Festival, which fall in these months and are vital to the viability of the business. Moreover the primary purpose is to provide a cafe for both employees and berth holders - people who are on site year round. As to proposed hours, as above, I do not believe these to be unreasonable. The business would not operate to the full extent of these hours all of the time. The applicant would not want to be prevented from the use of temporary awnings. These are useful when there is in bad weather and also to provide shade in full sunshine. Finally, there is already lighting in the decking. This is very low level and has not yet been used. The area will not be floodlight.

### 6.10 Additional Information from Birdham Pool Marina

We assessed the area of hardstanding taken up by the Scuttlebutt Café during discussions as to the viability of the opportunity to rent the space on a permanent basis. The café is located in the most inaccessible corner of the hardstanding, with very difficult access by our new boat mover trailer, and only reduces the total boat parking area by one boat.

Given that we've significantly improved the boat parking elsewhere onsite, and also improved the car parking management, it realistically does not impact on our ability to store boats at all – in fact we now have greater capacity than previously. The benefits to our berth holders of the café far outweigh this insignificant loss of space.

## **7.0 Planning Policy**

### **The Development Plan**

7.1 The Development Plan for the area comprises the Chichester Local Plan: Key Policies 2014-2029 and all made neighbourhood plans. The Birdham Neighbourhood Plan was made on the 19/07/2016 and forms part of the Development Plan against which applications must be considered.

7.2 The principal planning policies relevant to the consideration of this application are as follows:

Policy 1: Presumption in Favour of Sustainable Development

Policy 2: Development Strategy and Settlement Hierarchy

Policy 3: The Economy and Employment Provision

Policy 6: Neighbourhood Development Plans

Policy 8: Transport and Accessibility

Policy 39: Transport, Accessibility and Parking

Policy 40: Sustainable Design and Construction

Policy 42: Flood Risk

Policy 43: Chichester Harbour Area of Outstanding Natural Beauty (AONB)

Policy 44: Development around the Coast

Policy 45: Development in the Countryside

Policy 47: Heritage and Design

Policy 48: Natural Environment

Policy 49: Biodiversity

7.3 Birdham Neighbourhood Plan:

Policy 1 - Heritage Assets & Their Setting

Policy 3 – Habitat Sites

Policy 4 – Landscape Character and Important Views

Policy 5 - Light Pollution

Policy 6 – Biodiversity

Policy 9 - Traffic Impact

Policy 10 - Footpaths & Cycle Paths

Policy 15 - Rural Area Policy

Policy 18 - Flood Risk Assessment

Policy 22 - Development for Business Use

Policy 23 - Retention of Businesses

## National Policy and Guidance

- 7.4 Government planning policy now comprises the 2019 National Planning Policy Framework (NPPF), paragraph 11 of which states:

At the heart of the NPPF is a presumption in favour of sustainable development, For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>7</sup>, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>6</sup>; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

- 7.5 Consideration should also be given to Sections 4 (Decision-Making), 9 (Promoting Sustainable Transport), 12 (Achieving well-designed places), 14 (Meeting the challenge of climate change, flooding and coastal change) and 15 (Conserving and enhancing the natural environment) generally.

## Other Local Policy and Guidance

- 7.6 The aims and objectives of the Chichester in Partnership Community Strategy 2016-2029 which are relevant and material to the determination of this planning application are:

- Influence local policies in order to conserve and enhance the qualities and distinctiveness of our area

## **8.0 Planning Comments**

- 8.1 The main issues arising from this proposal are:

- i. Principle of the development
- ii. Impact on visual amenities/character and appearance of the site and surrounding area and AONB
- iii. Impact on heritage assets
- iv. Impact on neighbouring amenities
- v. Highway safety
- vi. Impact on Wildlife/Protected Species

## Assessment

### i. Principle of the Development

- 8.2 Policy 2 of the Chichester Local Plan defines of the development strategy for the District and identifies the locations where sustainable development, infrastructure and facilities will be accommodated, which in terms of scale, function and character support the role of the settlements outlined within the policy. The policy states that there is presumption in favour of sustainable development within the settlement boundaries. The policy continues and requires that development in the rest of the plan area, outside the settlement boundary, is restricted to that which requires a countryside location or meets an essential local rural need or supports rural diversification in accordance with Policies 45-46. Policy 45 of the Chichester Local Plan states that within the countryside, outside of settlement boundaries, development will be granted where it requires a countryside location and meets the essential, small scale and local need which cannot be met within or immediately adjacent to existing settlements.
- 8.3 The Birdham Pool Marina is an existing established marina, it is recorded within the Birdham Neighbourhood Plan (BINP) that the Birdham Pool Marina was Britain's first marina, established in 1935. It is an active marina with many boats moored within the berths and some dry storage for boats around the edge of the site. The Birdham Pool Marina is said to have capacity for 250 berths. The Tidal Mill is a noteworthy building within the area.
- 8.4 Castle Marinas Ltd operates Birdham Pool Marina and has leased a small area of boat storage to Tim Sturton- Davies of Waterside Cafes Ltd, trading as Scuttlebutt Café. The agent has confirmed that this was on the basis that the Birdham Pool Marina did not have an existing café and that the primary purpose of the café is to provide refreshments to berth holders and employees on the marina. It is proposed that the café would be sited and in use all year round. The café is modest and served by a small seating area. Toilets are provided for customers within the nearby buildings that form part of the marina.
- 8.5 The Applicant has confirmed that the café results in the reduction of dry boat storage by one large or two small boats at the most, it is also claimed that this area was previously difficult to use, due to its shape, and location, and that there is ample space within the marina to accommodate demand for dry storage all year round. The Chichester Harbour Conservancy (CHC) have requested that the café is restricted to summer months only due to the need to provide more dry storage in winter months. However the Marina operators have confirmed that there would remain sufficient storage for boats if the café was to be open all year round and there is therefore insufficient justification to support the request of CHC. The applicant has also stated that in order to make this cafe viable, and to provide facilities for staff working at the Marina, that the café is required all year round. Consequently, it is considered that an all year round café would not result in harm to the viability of the existing marina and there is no justification to limit the operation of the café to a seasonal use.

8.6 Policy 23 of the Birdham Neighbourhood Plan states that;

‘.....Proposals that adversely affect businesses related to the marine heritage of Birdham (i.e. Birdham Pool & Chichester Marina) will be discouraged.

Support will be given to the retention of all business related to tourism, marine, horticulture and agriculture against any proposals for redevelopment or for a change of use in accordance with Local Plan Policies 3 and 26. Accordingly, proposals for development must not have a significantly adverse impact on the tourism, marine, farming and horticultural businesses’.

8.7 In this instance it is considered that the provision of a small scale café on the site that is leased, and therefore controlled by the marina, would support the existing business. According to the Operations Director for Birdham Pool Marina, the constrained shape and size of the existing site makes it impractical for boat storage and does not impact on the ability to store boats elsewhere on site. It is evident that this is an underutilised part of the site and serves limited functional purpose to the Marina. Furthermore, the provision of a Café would enhance the offer of the marine business as well as providing facilities for users of the public right of way.

8.8 On this basis the principle of a small scale A3 café in this location would not result in a significant adverse impact on the existing use of the site as a working marina and would support the existing business and therefore comply with Policy 23 of the Birdham Neighbourhood Plan.

ii. Impact on visual amenities/character and appearance of the site and surroundings and AONB

8.9 The Café lies to the south of the Marina and is visible from the road running from west to east, which is also a public right of way. It is also visible from the associated features of the Marina, including the parking spaces, boats, pond and buildings. The unit that forms the café is clad in timber which has a dark finish and there is also a timber storage enclosure and deck that has been left with a natural finish, to weather overtime. The decking is framed by timber posts and a top rail with ropes that contain the seating area. The seats and tables themselves are also formed of timber and black metal. The café and associated features are located in and amongst the boats, buildings and facilities within the existing marina as well as benefiting from screening along the vegetated western and southern boundaries.

8.10 Representations of objection and support have been received, regarding the visual appearance of the café and its associated features. Whilst the Café is located to the immediate south of the PROW, it is a small feature that does not dominate the site and the natural appearance of the external materials and finishes assist with its visual integration within its surroundings. The natural beauty of the AONB and the functional character of the existing marina remains the dominant character and, on balance, Officers consider that the café does not result in harm to character and appearance of the area, or result in harm to the intrinsic natural beauty of the AONB and the important features that it possesses.

Overall the development is considered to conserve and enhance this part of the site and AONB. Subject to conditions regarding; hours of use, external lighting and limiting the use to an A3 café only; it is considered that the application complies within Policies 43, 45, 47 and 48 of the Local Plan and Policy 4, 15 and 23 of the Birdham Neighbourhood Plan

iii. Impact on heritage assets

8.11 The Birdham Mill, Well House and The Red House are Listed Buildings and the impact of development within their setting requires special consideration under the Listed Building and Conservation Area Act. The Grade II listed building at Tidal Mill is separated by a distance of 190m (as the crow flies), from the decking area of the café. The Grade II listed buildings Well House and The Red House are located approximately 156m northeast of the café. Given the low key nature of the café, both in terms of its use and physical appearance and its removed distance from the listed buildings it is considered that these proposal have a limited impact on the setting of these designated heritage assets and as such the impact on their significance would not be harmful. On this basis the proposals comply with Section 66 of the Planning (Listed Buildings and Conservation Areas) 1990 and Policy 47 of the Local Plan and Policy 1 of the Birdham Neighbourhood Plan.

iv. Impact on neighbouring amenities

8.12 There are neighbouring properties to the northwest and northeast of the café. The closest of which comprise of the converted building under allowed appeal (13/00316/FUL) are located a distance of approximately 45m west of the decking area. Well House and The Red House are the closest dwellings to the northeast at a distance of 156m from the application site. In this context the type of use and timings of the activity will be important to retaining the tranquil character of the site and surroundings and to ensure neighbouring amenities are protected. Given the above separation distances, the low key nature of the A3 use and the fact that noise from such activity would be ancillary to the use of the site as an active working marina, it is considered that the additional impact of the development on noise and disturbance would be limited, subject to a restriction of opening hours through a condition. Furthermore, the applicant has confirmed that this application does not propose the sale of alcohol, which in any case would require a separate licence. On this basis the proposals do not result in harm to neighbouring amenity, subject to conditions limiting the hours of opening and the use of the site as A3 use only.

8.13 On balance of the details, policies, material considerations and context of this case; the proposal would be sufficiently distanced, orientated and designed so as not to have an unacceptable effect on the amenities of the neighbouring properties, in particular to their outlook, tranquillity and privacy. Therefore, it is considered that the development complies with 127 of the 2019 NPPF.

v. Highway safety and parking

8.14 WSCC Highways have been consulted and have not raised an objection. The application site does not encroach or impede the public right of way therefore it is not considered that proposals are detrimental to the use of the public right of way or its users. A request for an informative regarding the private way, has been requested by WSCC Highways and is included as part of this recommendation.

8.15 Parking has been raised as concern by interested parties. Parking in the marina is mainly limited to its staff and berth holders. There is some space for visitors however this is limited. The café is located to serve passers-by, using the footpath and cycling routes within the area. Subsequently it is not considered that the ancillary nature of the development would provide a specific destination for users which would require its own parking provision. Neither is it considered that the café would result in the loss of parking spaces at the Marina.

vi. Impact on Wildlife/Protected Species

8.16 Before the café was implemented the site formed part of the existing marina site and the condition of the hardsuraced land would not have been one that would have accommodated wildlife and protected species. Therefore the siting of the café has had limited impact on habitats and wildlife. The activity in terms of noise from the café would be ancillary to the main use of the site and an active working marina. The remaining issue relates to the potential for light pollution and therefore the recommendation includes a condition to limit external lighting and in order to ensure the impact from such is at a suitable level a lighting scheme would require agreement with the LPA. Natural England has been consulted and have not raised an objection to the proposal. Therefore, it is considered that the proposal would comply with Policy 48 of the Local Plan and Section 15 of the NPPF.

Conclusion

8.17 Whilst the site is located within the countryside, the development would form a small A3 café that would support the existing marine business at Birdham Pool Marina. Furthermore, it is small scale, physically well related in its size, siting and appearance and would not result in a significant adverse impact on the character and appearance of the area. On this basis subject to conditions limiting the hours of use of the development and preventing new external lighting, the application is considered to comply with the Local Plan and Neighbourhood Plan and is therefore recommended for approval.

8.18 Overall, it is considered the proposal complies with the Development Plan and there are no material considerations that indicate otherwise therefore and subject to conditions permission should be granted.

## Human Rights

8.19 In reaching this conclusion the Human Rights of the applicants and nearby occupiers have been taken into account when reaching this recommendation and it is concluded that the recommendation to permit is justified and proportionate.

### **RECOMMENDATION**

**PERMIT** subject to the following conditions and informative:-

1) The development hereby permitted shall be maintained in accordance with the plans listed below under the heading "Decided Plans"

Reason: For the avoidance of doubt and in the interests of proper planning.

2) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, as amended, and the Town and Country Planning (General Permitted Development) Order 2015, or in any other statutory instrument amending, revoking and re-enacting these Orders, the development hereby permitted shall only be used as a A3 cafe in connection within Birdham Pool Marina and for no other use what so ever (including any other purpose in Class A3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 or in any provision equivalent to that Class in any other statutory instrument revoking and re-enacting that Order).

Reason; in the interest of visual and neighbouring amenities and to ensure the development has an appropriate use for the site, surroundings and AONB.

3) Notwithstanding the application details the café hereby permitted shall only be open to the public between the hours of;

Monday to Saturday; 08:00 – 20:00  
Sundays and Public Holidays; 09:00 – 18:00

And at no other times what so ever, unless otherwise agreed in writing by the Local Planning Authority.

Reason; in the interest of conserving and enhancing the tranquil character of the site, surroundings, AONB and neighbouring properties and gardens.



4) Within two months of the date of this permission a scheme for any external lighting shall be submitted to and agreed in writing by the Local Planning Authority. The external lighting shall only be implemented in accordance with the agreed details and retained and maintained as agreed in perpetuity.

The scheme shall include provision for the reduction of light spillage and details of illumination levels and types and locations of lights.

Note: Any proposed external lighting system should comply with the Institute of Lighting Engineers (ILE) guidance notes for the Reduction of Light Pollution.

Reason; in the interest of wildlife/protected species protection, conservation of dark skies and to conserve and enhance the natural beauty of the AONB.

### **Decided Plans**

The application has been assessed and the decision is made on the basis of the following plans and documents submitted:

Details	Reference	Version	Date Received	Status
PLAN - The Location Plan	1		10.04.2019	Approved
PLAN - Block Plan	2		10.04.2019	Approved
PLAN - Site Plan	3		10.04.2019	Approved
PLAN - Proposed Plans and Elevations	4		10.04.2019	Approved

### **INFORMATIVES**

1) The developer's attention is drawn to the provisions of the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats etc) Regulations 1994, and to other wildlife legislation (for example Protection of Badgers Act 1992, Wild Mammals Protection Act 1996). These make it an offence to kill or injure any wild bird intentionally, damage or destroy the nest of any wild bird intentionally (when the nest is being built or is in use), disturb, damage or destroy and place which certain wild animals use for shelter (including badgers and all bats and certain moths, otters, water voles and dormice), kill or injure certain reptiles and amphibians (including adders, grass snakes, common lizards, slow-worms, Great Crested newts, Natterjack toads, smooth snakes and sand lizards), and kill, injure or disturb a bat or damage their shelter or breeding site. Leaflets on these and other protected species are available free of charge from Natural England.

The onus is therefore on you to ascertain whether any such species are present on site, before works commence. If such species are found or you suspected, you must contact Natural England (at: Natural England, Sussex and Surrey Team, Phoenix House, 32-33 North Street, Lewes, East Sussex, BN7 2PH, 01273 476595, [sussex.surrey@english-nature.org.uk](mailto:sussex.surrey@english-nature.org.uk)) for advice. For nesting birds, you should delay works until after the nesting season (1 March to 31 August).

For further information on this application please contact Maria Tomlinson on 01243 534734

To view the application use the following link -

<https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PPR3UEERJOD00>