

From: Juan Baeza
Sent: 18 December 2018 10:54
To: Planning.Responses
Subject: AB/36/18/PL

Can response plus attachment be scanned in please.

Thanks

Juan Baeza Area Team Leader – Planning Department, Arun District Council | Location: First Floor, Arun Civic Centre, Maltravers Road, Littlehampton, BN17 5LF
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Visit Arun's web site at www.arun.gov.uk



Save the environment - think before you print.

From: Juan Baeza
Sent: 18 December 2018 10:53
To: 'Adrian Burrows'
Cc: Anita Gardner; Martyn White
Subject: RE: aha! Fitzalan Road. objection

Dear Mr Burrows,

Taking each of your points in turn:

- 1) The Report does not need amending. The extent of the remaining brewery building on the opposite side of Fitzalan Road is not material to the consideration of the application. The building has been acknowledged as a heritage asset.
- 2) Your view differs from officers. In our opinion the report is not incorrect in this respect. The harm identified is your subjective opinion and not one shared by any of the heritage advisers employed by Arun in the last 2 years. The South Downs National Park were not consulted. Given the location of the site within the built up area boundary of Arundel it was not considered necessary to consult them.
- 3) The comments of the Tree Officer were noted and discussions with him have followed. He had no objection in principle. The additional concerns raised by you could be addressed in a Method Statement which could be conditioned.
- 4) The officer report acknowledges that the distance to your property from the proposed development has altered since originally submitted, but concludes that although the report is not up to date it is not considered that material harm would result.
- 5) Southern Water state that the impact of the additional foul sewerage flows from the proposed development will increase the risk of flooding unless network reinforcement is undertaken. They are not saying that the flood risk is a concern that cannot be controlled and go on to suggest imposition of appropriate conditions.

- 6) The visibility splays which were not indicated across adjacent land were inadequate. In order to satisfactorily demonstrate acceptable visibility third party land is likely to be involved and Notice would then be required to be served on adjacent land owners. This is a matter that the applicants could consider in any re-submission
- 7) Issues with validation were initially identified and following further action by the Council's registration team legal advice confirmed that the application could proceed to be validated. No action is being taken by the Local Planning Authority to seek costs against the applicants. They have not acted unreasonably and the application is not the subject of an appeal where costs can be requested.
- 8) The Conservation Officer is entitled to take a differing view regarding the flint walling. This may need to be removed to improve footpath provision.
- 9) The Heritage Asset is not a Listed Building and would not meet the criteria for the Council to pursue.

Regards

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From: Adrian Burrows [REDACTED]
Sent: 17 December 2018 14:35
To: Juan Baeza
Subject: Re: aha! Fitzalan Road. objection

Dear Juan,

May we please have a reply to our email of 3rd december which is now very pressing and relevant because renaissance have confirmed they will be appealing.

thanks,

Adrian.

On 3 Dec 2018, at 13:15, Juan Baeza <Juan.Baeza@arun.gov.uk> wrote:

Dear Mr Burrows

Thank you. You will receive a response to your letter by the end of next week.

Regards

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From: Adrian Burrows [REDACTED]
Sent: 03 December 2018 12:30
To: Juan Baeza
Cc: Anita Gardner; Martyn White; Town Clerk
Subject: Re: aha! Fitzalan Road. objection

Dear Juan,

thanks for the below.

1. we request that the objections are placed on the portal; and,
2. we request a response to each of the points raised in the letter.

at the risk of repeating ourselves this is necessary because :

- a) it is possible that the applicants have committed a criminal offence so it is right that the matter is properly investigated , then reported (and costs pursued against the applicants); and ,
- b) it seems that the officers report is incorrect so must surely be corrected otherwise it will prejudice the council case at appeal and in respect of any future applications.

we look forward to your substance response.

thanks in advance,

Adrian

On 3 Dec 2018, at 11:47, Juan Baeza <Juan.Baeza@arun.gov.uk> wrote:

Dear Mr Burrows

Can you please confirm that all that you are requesting is that your attachments are placed on the planning portal for this application.

Regards

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From: Adrian Burrows [REDACTED]
Sent: 03 December 2018 10:59
To: Anita Gardner; Juan Baeza; Martyn White
Cc: Town Clerk
Subject: aha! Fitzalan Road. objection

Dear Antia/ Juan,

we note that the application has now been refused but please see the attached Objection on behalf of the Aha! Campaign Group which we would be grateful if you would please on the public portal.

thanks,

Adrian Burrows
07957 209 107

<http://www.arun.gov.uk>
DX 57406 Littlehampton

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Adrian Burrows

AHA! Affordable Housing In Arundel
"Seeking to Preserve Arundel"

Riverside House, 2 Fitzalan Road, Arundel, BN18 9JS



Monday 3rd Deecember 2018.

Dear Juan & Anita,

Re Blastreat , Fitzalan Road.

We are pleased that you have refused planning permission for most of the major grounds that we , our ward members and Town Council have been raising for many months and wish to thank you for your hard work. However, we wish to place on record that there are , in our view, some potential omissions or errors in the Officers Report ,and, in our view, it is paramount that these are corrected. Failure to urgently correct these will lead the applicants or future applicants to incorrectly use the Officers Report as a precedent/ guide for their next application. The potential areas that require clarity / enforcement are as follows:

1. **Swallow Brewery:** the report infers that the brewery building is the last remaining part of the now demolished brewery building. This is repeated by the conservation officer. This is , with respect, incorrect. On the opposite side of Fitzalan RD from the development site, inside the conservation area, remains some 10,000sqft of commercial premises dating from 1820-1840 including 2 chimneys (1820 and 1840), a forecourt and a malt house from 1890 . The threatened building is part of the complex and to harm part, harms all- including the conservation area. This point has been continuously ignored by all parties. Will you correct this aspect of your report?
2. **Setting of the Conservation Area/ ancient monuments / national parks and listed buildings:** Your report states that the setting of the conservation area will not be harmed. We question whether this is in partly because you have not taken point 1 (above) into account? Further, and contrary to your officer report, we attach the recent case law on settings which confirms that a new development does not have to be visibly connected to a heritage asset / conservation area/ monument / park to damage its setting, it only needs to be in the environment/ townscape. In this case, the site will be visible from the gates of the castle, the south downs nation park and many of the listed buildings in the conservation area of Arundel. The impact on the setting will be major and in direct breach of area policy 3 . Further, the NPPF contains firm policy restricting buildings visible from monuments and nation parks. To this end, we have taken photos from the national park and confirm that the roof of the proposed building will be visible from

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many important view points and indeed it would be the only roof (except Martlets Court) which would be visible from many areas of the protected flood plan (national park). We are unsure why south downs national park were not consulted , pls confirm. Nb. the National Park boundary is only circa 100 from the site. Will you review these aspects of your report?

3. **Trees:** the officer's report infers there is no objection regarding trees. AHA! spoke to Mark Warwick (Arun's tree officer) about 2 weeks ago and he stated he was unable to properly assess the tree report because the applicants had failed to show the RPA of the trees (under TPO's) in the garden of Martlets Court and/or on the side of the highway. Until this is done, in our view, it is incorrect to say there is no tree objection. Will you correct this?
4. **Windows and rights of light and daylight:** The officers report states that the daylight assessment is acceptable. However, there remain two major errors: first, since the daylight report was conducted, the applicants have submitted new plans confirming riverside house and ottmers quay are some 600mm closer to the development site (we say they are closer than that). That means the proposed building will impact on the windows and the report was based on incorrect plans so it is not credible. Secondly, and incredibly, the daylight report still completely fails to mention or assess the nearest window in the southern gable of riverside house which is some 7m from the proposed buildings. In this regard your report is also wrong because it fails to mention this window, states the nearest window is about 4m farther away than it is and states that the applicants daylight report is correct- which it obviously is not. Will you now correct it please?
5. **Southern Water:** we note that your report states that there is no risk of flooding. Our reading of the Southern Water reports is that they requested a Hydraulic Capacity Study (which was not forthcoming from the applicants) and, in the absence of that HCS, the desk top study that Southern Water have conducted stated that there would be a "serious risk of flooding". Will you now correct your report in this regard?
6. **Owner's Certificate :** please will you now confirm , (based on the Highways Officer's Report) that you accept the applicants committed a criminal offence pursuant to Section 65 . 5) & 6) of the Town and Country Planning Act 1990 by failing to correctly serve the Owner Certificate and confirm what steps Arun is taking against the applicants? As qualified Town Planners with an in house legal team being advised by Architects , it is inexcusable that the applicants refused to serve the Owners Notice correctly in spite of many requests. Further, this allegedly fraudulent conduct has led to vast costs being incurred by Arun District Council , Arundel Town Council, AHA! and the

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Statutory Consultees. The applicants are potentially liable for these costs if the costs have arisen as a consequence of alleged illegal/criminal conduct. Indeed, we believe Arundel have a duty to its rate payers in pursuing these costs.

7. **Invalid Application: Outline the site boundary:** please will you now accept that the applicants wholly failed to outline the whole site correctly in red (inclusive of visibility splays) in spite of being asked by Arundel and AHA! from circa April 2018 to do so properly and consequently the application should not have been validated and or should have been corrected. We still fail to understand how an application was validated when it did not show visibility splays and was not correctly showing the site area/ area outlined in red. Again, what steps is the LA taking against the applications to seek costs against the applicants in respect of submitting and then consistently allowing a false application to progress? If the above is the case, in our view, the fact that the applicants breached the rule but then refused to correct this and the fact that they presumably would have known that correcting it would lead to an immediate refusal on highway grounds shows the applicants to be thoroughly culpable, reckless and dishonest (and we use those words in their legal sense).
8. **Flint retaining wall :** the Conservation Officer has stated that there are no buildings on the site (other than part of the former Swallow Brewery complex) that are worthy of retention. We disagree and cannot understand why this would be stated. The CAAC stated in 2017 that the flint wall had merit and should be retained if possible. The wall starts some 200m away at Queens street and runs along the perimeter of much of Queens Lane (including the designated cottages on the corner of Queens Lane and Queens Street) and around Fitzalan Rd incorporating Arden Guest House (a designated heritage asset some 20m from the site) and it is therefore an important part of the local character. Further, maps indicate it was part of the early boundary from circa 1840 and it may be appropriate to list it in its own right or declare it a Heritage Asset. What steps will Arundel take to correcting this and indeed preserving the wall which we believe should also be incorporated into the Article 4 Direction already on the site.
9. **Other:** since the applications on the site have been submitted since late early 2017, the site owners have noticeably allowed the Heritage Asset (part of the former swallow brewery) to fall into substantive disrepair. Windows are now broken, vegetation has been allowed to grow up the outside and an over flow pipe has now been permanently leaking for some 3 months (this will cause major damp and damage particularly during the winter). We say this is likely to be a deliberate attempt to render the building unviable. We note the NPPF states that heritage assets should not be condemned for demolition due to poor

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maintenance and applications to demolish should not take poor condition into account , but rather, LA's should take steps to ensure heritage buildings are maintained. Please will you now confirm what steps Arun will take to ensure the buildings does not become unviable due to wilful (and illegal) neglect?

Please would you confirm what steps the council will now take in respect of the above points. Please note there are some important points of law in this letter and we advice you place this before your in house counsel.

Suffice to say, AHA! remains committed to enforcing all aspects of this misconceived development and stands ready to defend this matter both at appeal or in the event a modified application be submitted.

Kind regards,

Adrian Burrows.

For the AHA! Campaign Group.

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