

Recommendation Report for Planning Permission

REF NO: AB/69/18/PL

LOCATION: Butlers Bar and Restaurant
25 Tarrant Street
Arundel
BN18 9DG

PROPOSAL: Replacement of french doors with folding sliding doors on rear elevation & replacement of 3 No. air conditioning units (resubmission following AB/96/17/PL). This application affects the character & appearance of the Arundel Conservation Area.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Part of the proposal relates to removal of 3 air conditioning units adjacent to the eastern boundary and their replacement with 2 units more centrally sited on the roof at first floor and one at ground floor level. The plant will be installed at the rear of the existing building. 2 air-conditioning outdoor units and one cellar chiller outdoor unit will be installed. The AC plant replaces old AC/Cooler plant which has now been removed.
SITE AREA	N/A
TOPOGRAPHY	Predominantly flat.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	N/A
SITE CHARACTERISTICS	3 storey end of terrace property. Ground floor is in use as a restaurant. upper floors are in residential use. Flint and painted rendered elevations.
CHARACTER OF LOCALITY	Town centre location. Generally retail/coffee shop uses at ground floor with residential/commercial uses at first floor.

RELEVANT SITE HISTORY

AB/96/17/PL	Replacement of french doors with folding sliding doors & replacement of 3 No. air conditioning units. This application affects the character & appearance of the Arundel Conservation Area.	Refused 01-12-17
AB/88/17/PL	Change of use (first & second floor only) from Residential (C3 dwellinghouses) to Bed & Breakfast (C1 Hotels).	ApproveConditionally 17-08-17

This application affects the character & appearance of
Arundel Conservation Area

This proposal is a resubmission of application AB/96/17/PL which was refused for the following reason:

Based on the information submitted with the application the Local Planning Authority is not satisfied that the air conditioning units would not result in material harm to the residential amenities of the adjoining property by reason of excessive noise in conflict with policies GEN7 and GEN32 of Arun District Local Plan and the National Planning Policy Framework.

The application now contains further information in relation to the noise generated by the air conditioning units.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Arundel Town Council

The Committee had no objection to the application provided the necessary noise attenuation measures are provided to ensure that there is no noise nuisance to neighbouring occupiers.

One Objection - The revised application again includes the provision of plant for air and cooling to food storage to be placed on the flat roof very close to my bedroom window.

- Despite the planning refusal the plant was installed and has been operational for many months.
- Noise from the plant is clearly audible from my house particularly at night preventing normal sleep.
- At the time of the last application your Environmental Health Dept. sought to undertake an acoustic test involving the setting up of sound equipment in the bedroom which is closest to the current plant. The owners of Butlers despite the prior arrangement refused them access to run the test so the assessment was abandoned.
- The now supplied acoustic report has not seen any measurement from my property and appears merely to provide the sound output from the plant. It cannot have provided any assessment therefore of the actual nuisance.
- I believe the plan is to remove a single item of the plant reducing the number to 2. If that is possible why is it not also possible to re-site the entire plant away from the close proximity of my house and not at such a high level where plainly noise will travel that much further.

COMMENTS ON REPRESENTATIONS RECEIVED:

The proposal is reducing the number of units at first floor from 3 to 2 and although it relocates the 2 units closer to the boundary with no 27 (they were 4.6m from the boundary, but are now a distance of 3.8m and 2m) they are to be repositioned to ensure that they are installed to face away from the closer windows which overlook the flat roof. The chiller unit is to be provided at ground floor level increasing the distance from neighbouring windows. The proposal includes an acoustic report which considers the impact of noise levels on neighbouring properties and demonstrates that noise levels generated would be acceptable in terms of impact on residential amenity. The Environmental Health officer has previously visited the site and has no objection to the proposal in terms of noise generation subject to conditions which include limiting the times of operation.

CONSULTATIONS

Environmental Health

Conservation Officer

CONSULTATION RESPONSES RECEIVED:

Conservation Officer - No Objection

The property concerned is a locally listed building or structure of character. It is located within the heart of the conservation area, where there is a presumption in the preservation and enhancement of the established character. It is noted that the window is located to the rear of the building, where limited views may be visible from the neighbouring car park. As such the impact of such a window is limited. It is therefore considered that this element of the proposal will have a neutral impact upon the conservation area.

Environmental Health - No Objection

I refer to Acoustic Associates Sussex Ltd, 'Commercial Noise Assessment : Replacement External Plant, Project No. 2372, Final Noise Assessment' 12th September 2018, as attached. Recommend approval of this application subject to imposition of conditions.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designation applicable to site:

Within Built Up Area Boundary

Within Conservation Area

Building of Special Character

DEVELOPMENT PLAN POLICES

QEDM1	QE DM1 Noise Pollution
QESP1	QE SP1 Quality of the Environment
DDM1	D DM1 Aspects of form and design quality
HERDM3	HER DM3 Conservation Areas
HERDM2	HER DM2 Locally Listed Buildings or Structures of Character

[Arundel Neighbourhood Plan 2014 POLICY1:](#) The Presumption in Favour of Sustainable Development

Arundel Neighbourhood Plan 2014 POLICY13: Buildings and Structures of Character

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 and Made Neighbourhood Development Plans.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area.

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton.

Policies 1 & 13 of the Arundel Neighbourhood Plan are considered relevant to this proposal.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to comply with relevant Development Plan policies in that it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it have an adverse impact upon the established character of the surrounding area.

Section 71(1) of the Planning (Listed Buildings & Conservation Areas) Act 1990 states:

In the exercise, with respect to any buildings or other land in a Conservation Area of any powers (under the Planning Acts), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

The proposal is considered to comply with these criteria in that it is not considered to materially affect the character of the Conservation Area

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

PRINCIPLE

The application site is located within the built up area boundary, where the principle of development is acceptable subject to accordance with the relevant development plan policies, as stated in SDSP2 of the Arun Local Plan. In this case, the key policies are deemed to be DDM1 of the Arun Local Plan and Policy 1 of the Arundel Neighbourhood Development Plan.

BACKGROUND

The proposal comprises 2 elements. Installation of air conditioning units and alterations to the patio door

opening at ground floor. The fenestration changes were deemed acceptable in the previous application A/96/17/PL and were not referred to in the reason for refusal.

DESIGN AND VISUAL AMENITY

The proposed development relates to alterations to ground floor patio doors and air conditioning units. Whilst it is noted that this will have an impact on the established character of the host property. This is as a result of the different design of both the window frames, but also the change in materials from timber to aluminium. The door and air conditioning units are not readily visible from outside the site and the Conservation Officer is of the opinion that the proposal will not have a significantly detrimental impact on the conservation area or its setting, as it is deemed to preserve its existing character. This is partially due to the modest design change and materials of the proposed doors and the limited height of the air conditioning units. Therefore, the proposal is considered to be in accordance with and policies HER DM3 and DDM1 of the Arun Local Plan in terms of design, visual amenity and the impact on the character of the Conservation Area.

It is also considered that the proposal would have no adverse impact on the character or appearance of the building of Special Character in accordance with policy HER DM 2 of Arun Local Plan and policy 13 of Arundel Neighbourhood Plan .

NEIGHBOURING RESIDENTIAL AMENITY

The proposal does not create or remove any existing openings. Therefore the change in door style is not considered to have any significant impact on the neighbouring residential amenity on the area, in accordance with DDM1 of the Arun Local Plan.

The 2 air-conditioning outdoor units, which will operate when the restaurant is open, will be installed on the first floor flat roof. One cellar chiller outdoor unit, which may operate at any time, will be installed at ground floor level in the rear courtyard. This position has been chosen to reduce the night time noise levels affecting nearby noise sensitive receptors (NSRs).

With regard to the units the proposal includes an acoustic report which refers to the following mitigation measures:

- Install Cooler under fire escape stairs in courtyard.
- Fill in gaps within stair treads of the fire escape.
- Switch off AC plant at around 22:30Hrs
- Another mitigation measure which will be completed but was not detailed in the model is that the AC units will be installed to face away from the closer NSRs windows which overlook the flat roof. Conditions have been imposed to ensure the development proceeds in accordance with these details. The environmental health officer also has no objection to the proposal.

Therefore it has now been satisfactorily demonstrated that the noise levels arising from the development will be acceptable in terms of their impact on the neighbouring residential property and the proposal accords with policies D DM1 and QE DM1 of Arun Local Plan.

The application is therefore recommended for approval subject to the following conditions.

HUMAN RIGHTS ACT

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.DM3

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 Location, Proposed Ground Floor A.02.3, Proposed First Floor A.02.4, Proposed South Elevation A.03.2, First Floor Plan detailing height of units.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy DDM1 of the Arun District Local Plan.

- 3 Noise generating equipment, including air conditioning units or other devices provided to the flat roof adjacent to sensitive receptor NSR must not operate between the hours of 22.30 and 08:30 hours at any time.

Details of noise mitigation which will be provided to the repositioned cellar chiller unit beneath the fire escape to the rear of the premises are to be agreed with and approved in writing by, the Local Planning Authority and West Sussex Fire & Rescue Service and the details so approved shall be retained in perpetuity.

Reason: To protect the amenities of occupiers of adjoining properties in accordance with policies DDM1, QE SP1 and QE DM1or Arun Local Plan.

- 4 The development shall proceed in accordance with the Acoustic Associates Sussex Ltd, 'Commercial Noise Assessment : Replacement External Plant, Project No. 2372, Final Noise Assessment' Report dated 12th September 2018, including the mitigation works referred to at paragraph 5 and the details so approved shall be retained in perpetuity.

Reason: To protect the amenities of occupiers of adjoining properties in accordance with policies DDM1, QE SP1 and QE DM1or Arun Local Plan.

- 5 INFORMATIVE: The granting of this planning permission does not in any way indemnify against statutory nuisance action being taken should substantiated complaints within the remit of the Environmental Protection Act 1990 be received. For further information please contact the Environmental Health Department on 01903 737500.
- 6 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 identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.