

Recommendation Report for Planning Permission**REF NO:** AB/96/17/PL**LOCATION:** Butlers Bar and Restaurant
25 Tarrant Street
Arundel**PROPOSAL:** 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.**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION	As above. Part of the proposal relates to removal of 3 air conditioning units adjacent to the eastern boundary and their replacement with 3 units more centrally sited on the roof.
SITE AREA	N/A
TOPOGRAPHY	Predominantly flat.
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	N/A
SITE CHARACTERISTICS	The
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/108/00/	Replacement of external stairs and new deck area and handrails.	Refused 09-10-2000
AB/88/17/PL	Change of use (first & second floor only) from Residential (C3 dwellinghouses) to Bed & Breakfast (C1 Hotels). This application affects the character & appearance of Arundel Conservation Area	ApproveConditionally 17-08-2017
AB/1/85	Change of use and conversion to restaurant with existing living accommodation above	ApproveConditionally 13-02-1985

REPRESENTATIONS**Representations received:**

Arundel Town Council

No Objection, but disappointed this is a retrospective application.

One Objection - 25 Tarrant Street is an end of terrace property. It has accommodation over basement and ground floor and 2/3 floors above of residential. The western side comprises a line of terraced properties. 27 directly abuts no. 25. Recent renovation works to no 25 saw the re-siting of 3 air conditioning units on the rear extension of the roof at first floor level. They are obtrusive and only 22 ft from my bedroom window. I was assured by the builders that an acoustic barrier between the units and the adjoining property would be provided. I have also made enquiries of the owners of no 25 as to the possibility of them carrying out an acoustic test to determine the extent of noise emanating from the condensers when operational. So far neither the barrier or reports has been provided.

Would like reassurance that the constant running of the air conditioning units in such close proximity to bedroom window will not be a nuisance in the future. There is a consistent humming noise clearly audible through night time hours.

Comments on Representations received:

Agreed. Based on the information submitted it has not been satisfactorily demonstrated that the units do not cause material harm to residential amenity.

CONSULTATIONS

Conservation Officer
Environmental Health

Consultations responses received:

Environmental Health

First response - Objection on the grounds that insufficient information has been provided.

Second response - Noise readings submitted inadequate.

Conservation Area Advisory Committee - No Objection

Conservation Officer - No objection as the Conservation Area and Listed Building remain unharmed.

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 POLICIES

[Arun District Local Plan 2003:](#) [GEN32](#)
 [GEN7](#)
 [AREA2](#)
 [GEN22](#)

[Publication Version of the Local Plan \(October 2014\):](#)

Noise Pollution
The Form of New Development
Conservation Areas
Buildings or Structures of Character
QE DM1 Noise Pollution
QE SP1 Quality of the Environment
D DM1 Aspects of Form and Design

	Quality
	HER DM3 Conservation Areas
	HER DM2 Locally Listed Buildings or Structures of Character
	HER SP1 The Historic Environment
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 District Local Plan 2003, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

A new local plan is in preparation and is a material consideration when determining Planning Applications. At this stage the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and supporting documents were submitted for independent examination on 30 January 2015.

A number of Main Modifications to the Arun District Local Plan 2011-2031 (Publication Version) October 2014 were approved by the Council on 22nd March 2017 and consultation on these has taking place. The Main Modifications should be read alongside the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and where there are changes the Main Modification. The examination was completed in September 2017.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

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. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation (Reg.14).

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.

Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation (Reg.14).

Policies 1 & 13 of the Arundel TC NP 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 conflict with relevant Development Plan policies in that it would have a materially adverse effect on the residential amenities of the adjoining property.

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

It is noted that no details of the height of the condensers have been submitted but the application is retrospective and it is evident that they are not unduly obtrusive. Neither the proposed air conditioning units or french doors would be readily visible in the street scene. Given their limited size and dimensions it is considered that the developments would not have an unacceptable impact on the visual amenities of the locality or the character of the building or Conservation Area generally.

However, in terms of residential amenity it is has not been satisfactorily demonstrated that the noise levels arising from the development are acceptable in terms of their impact on the neighbouring residential property. The agent has been given the opportunity to provide this additional information, but what has been submitted is not to the satisfaction of the Council's environmental health section. The application is therefore recommended for refusal on this basis.

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), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of

property in accordance with the general interest and the recommendation for refusal 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

REFUSE

- 1 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.
- 2 **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 with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason for the refusal, approval has not been possible.