

Recommendation Report for Planning Permission

REF NO: A/107/20/PL

LOCATION: The Vinery
Arundel Road
Angmering
BN18 9PY

PROPOSAL: Variation of condition 4 imposed under A/154/17/PL relating to hours of operation.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

This application seeks an increase in working hours for the new industrial building approved under A/154/17/PL. The buildings are located immediately to the north of the existing unit 35a and comprise 8 individual units of 140m², each with a roller door vehicular access on the north elevation, and a fire exit and service door on the southern side.

Condition 4 of planning permission A/154/17/PL states:

'No machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: 07.00hours to 18:00 hours Monday to Friday inclusive; 08:00hours to 13:00hours on any Saturday; No working on any Sunday or Public or Bank Holiday.'

The applicant wishes to amend the wording of this condition to read:

'No machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: 06.00hours to 20:00 hours Monday to Friday inclusive; 07:00hours to 18:00hours on any Saturday; No working on any Sunday or Public or Bank Holiday.'

SITE AREA

0.8 hectares.

BOUNDARY TREATMENT

There is significant boundary screen planting to the north (A27), south and east boundaries including some specimen trees.

The east boundary of the site adjoining the road onto which dwellings to the east face is a 2m chain link fence with 3 strand barbed wire element above. To the rear of the on the east boundary is deciduous hedgerow planting of a similar height to the fence.

SITE CHARACTERISTICS

The building is clad in the same materials as most of the buildings on the site. It comprises profiled steel cladding and

has a mono pitch roof.

CHARACTER OF LOCALITY

The overall site area which the application site is located within is in employment use and is occupied by a range of units of a similar design and appearance. Employment development extends to the south and west of the application site. To the east of the site are 4 terraces of two-storey dwellings, one of which directly faces the site.

To the north of the site is the A27 Trunk Road and to the south and west of the site there are open fields.

RELEVANT SITE HISTORY

A/154/17/PL	Erection of industrial building (Unit 35b) for B1 (Business)/B8 (Storage or Distribution) purposes, relocation of existing site managers office & workshop. This application is a Departure from the Development Plan.	ApproveConditionally 20-12-17
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REPRESENTATIONS

Angmering Parish Council - No Objection.

3 Objections:

- The proposal is for a significant increase in hours of working.
- This will result in a significant amount of extra noise, traffic onto the A27 and on-site and general disruption for the residents at the Vinery, particularly those on the East side of The Street.
- The approved working hours on the original application A/107/20/PL and others, were imposed for very good reason, after extensive consultation and agreement.
- The present hours of operation on Saturdays of 08.00 to 13.00 sensibly reflect that there are local residents with families and visitors in close proximity to the Vinery site.
- The Corona Virus should not be used as a lever to permanently increase the hours of operation at the Vinery.

COMMENTS ON REPRESENTATIONS RECEIVED:

Approval of the application would not set a precedent every application is determined on its own merits. The impact on residential amenity is discussed in the conclusion section of this report.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Environmental Health - objection.

Restricted hours of operation aim to minimise noise which might otherwise detrimentally affect the amenity of existing housing to the east of this site. Recommend that all units closest to residential dwellings retain existing hours of operation as defined in condition 4, planning application A/154/17/PL.

COMMENTS ON CONSULTATION RESPONSES:

- comments noted

POLICY CONTEXT

Designation applicable to site:

Outside Built Up Area

Adjoins/Access from A27 Trunk Road

DEVELOPMENT PLAN POLICIES

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

DDM1	D DM1 Aspects of form and design quality
QESP1	QE SP1 Quality of the Environment
QEDM1	QE DM1 Noise Pollution
EMPDM1	EMP DM1 Employment Land: Development Management

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

There are no relevant policies in the Angmering Neighbourhood Plan.

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 the proposed change in operating hours would result in a materially adverse effect on the residential amenities of nearby properties.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are/are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

EMPLOYMENT

Policy EMP DM1 of Arun Local Plan seeks to enhance employment sites and premises, including promoting positive measures to upgrade existing employment areas through supporting appropriate proposals for development/re-development of employment floorspace, upgrading or modernisation of existing premises and/or proposals which make more efficient use of under-used employment sites and premises. Part 6 of policy EMP DM1 relates to economic growth outside the built up area boundary. One of the provisions of this policy (g) requires that there is a satisfactory relationship with neighbouring uses in order that the amenities of nearby residents are protected. For reasons set out below it is not considered that the proposal meets this requirement.

Government policy in the form of the NPPF Para 80 refers to adaptation and expansion of business and the need to support economic growth and productivity.

The relaxation of the imposed hours of operation would directly help meet the needs of companies looking for a longer more flexible working day which would benefit the wider economy. The agent has advised that in reality only a limited number of companies would work on a regular basis outside the existing approved hours. The relaxation of the operating hours will give greater flexibility to companies over how they operate, and in particular allow them to more easily respond to business pressures and would accord with para 80 of the NPPF.

However the proposed change in operating hours would give rise to significant adverse impacts on nearby residential properties which would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF (Para. 80). The proposed increase in working hours would be at the expense of additional noise and activity at times when residents would expect to enjoy peace and quiet in their homes and gardens principally in the early morning and evening hours as well as the weekends.

IMPACT ON RESIDENTIAL AMENITY

The units which are the subject of this condition are located close to the site entrance and the terraces of residential dwellings adjacent to the access road to the east (25m away). The proposal would have an impact on these residents and the proposal falls to be considered against policies D DM1 and QE SP1 of the Local Plan which seek to ensure that development does not have an adverse impact on residential amenity.

The relaxation of the hours of operation will potentially spread visits over a longer period and it is claimed only a limited number of companies would work on a regular basis outside the existing approved hours.

It also accepted that other units within the Vinery do not have such limited hours of operation, but these are located further from the existing residential dwellings to the east. Those affected in terms of amenity impact are the dwellings to the east which are approx a minimum of 25m away and the agreed times of operation condition ensured that the impact remained at acceptable levels and met the tests for imposition of conditions in that it was reasonable and necessary.

This proposal requests a significant increase in operating times (one hour earlier and 4 hours later Mon-Fri and one hour earlier and 5 hours later on a Saturday) but contains no proposed mitigation such as excluding the units closest to residential dwellings from the proposal or additional noise suppression measures.

The environmental health officer has objected to the proposal in its current form which is seen as a valid

planning objection in terms of adverse effect by way of noise and disturbance at unsociable hours on nearby residential properties in conflict with policy D DM1(3), QE SP1 and QE DM1 of Arun Local Plan which require development to contribute positively to the quality of the environment and ensure development does not have a significantly negative impact upon residential amenity by way of noise and disturbance by way of noise and disturbance during hours when residential amenity should be protected

CONCLUSION

For the above residential amenity reasons It is recommended that planning permission is refused for the following reasons.

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 The proposed increase in operating, processing and delivery hours would adversely affect the residential amenity of nearby occupiers by way of noise and disturbance during hours when residential amenity should be protected in conflict with policies D DM1 and QE SP1 of Arun Local Plan.
- 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 determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.