

Recommendation Report for Planning Permission

REF NO: A/13/21/PL

LOCATION: The Resourceful Squirrel
Red Lion Buildings
High Street
Angmering

PROPOSAL: Variation of condition 3 imposed under A/189/20/PL relating to hours of operation of outside seating area.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The proposal seeks to vary the wording of condition 3 of planning permission A/189/20/PL which states 'The outside seating area shall only be used between 09.00 hours and 19:00 hours on Monday to Saturday and 10am to 1600 hours Sundays, Bank and Public Holidays.' The application was submitted to request daily hours of 9am to 10pm, but following the comments of the Environmental Health officer it was agreed that the applicant would accept the hours being amended to 9am - 9pm Mon - Thurs, 9am to 10 pm Fri/Sat and 10am to 6pm on Sunday and B/H. However following the Parish Council comments this has been reduced further to 9pm close Monday to Saturday.
BOUNDARY TREATMENT	Unenclosed, open frontage with courtyard area to ground floor retail unit.
SITE CHARACTERISTICS	The site consists of a forecourt area which is used in association with an approved barista coffee house/micro-bar (A3 Food & Drink & A4 Drinking Establishments) at the former Woodies newsagent, The Square. There is a ground floor residential flat behind the premises and a first floor flat above.
CHARACTER OF LOCALITY	The premises is located within Angmering Village centre. It forms the end unit, on the corner between the southern and eastern side of the High Street, and it terminates a small strip of commercial premises (including offices, estate agents, picture framers, a Co-op) which fronts the High Street and Water Lane. The Lamb public house is opposite. There is a mixture of commercial and residential uses, and a mixture of building styles, within a village setting.

RELEVANT SITE HISTORY

A/189/20/PL	Provision of permanent outside seating & awning. This application may affect the setting of a listed building, affects the character & appearance of the Angmering Conservation Area & is in CIL Zone 2 (Zero Rated) as other development.	ApproveConditionally 15-01-21
A/133/20/PL	Variation of condition 5-hours of operation, following A/52/20/PL to allow opening from 9am. This application is in CIL Zone 2 (Zero Rated) as 'other development'.	ApproveConditionally 14-10-20
A/52/20/PL	Change of use from florist (A1 Shops) to barista coffee house/micro-bar (A3 Food & Drink & A4 Drinking Establishments). This application affects the character & appearance of the Angmering Conservation Area.	ApproveConditionally 11-06-20

Condition 2 of A/133/20/PL which related to use of the building as a micro bar/coffee house stated: 'The use hereby permitted shall only be open for trade and business between 09.00 hours and 22:00 hours on Monday to Sunday, to include Bank and Public Holidays.

Reason: To protect the amenity of local residents in accordance with Policy QE SP1, QE DM1 and D DM1 of the Arun Local Plan.'

REPRESENTATIONS

Angmering Parish Council - No Objection.

The comments made by the Environmental Health officer were noted, but in order to reduce the potential of disturbance to neighbouring residents from noise, smells and fumes the hours should be restricted to 9am - 9pm Monday to Saturday, 10am - 6pm Sunday and Public/Bank Holidays. Since these are now agreed by the agent the earlier objection is withdrawn.

COMMENTS ON REPRESENTATIONS RECEIVED:

The time restrictions sought by the applicant are similar to other premises in the village centre.

The Lamb pub opposite has outside seating to the front and rear and operates with a time limit restriction on the rear decked outside seating area of 08.00 - 22.00 daily .

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Environmental Health - Allowing use of the external seating area from 9am until 10pm every evening, including Sundays and Bank/Public holidays has the potential to cause disturbance for neighbouring residents.

Amendment of the condition to the following hours would be considered acceptable:

9am - 9pm Monday to Thursday.

9am - 10pm Friday and Saturday.

10am - 6pm Sunday and Public/Bank Holidays.

County Highways - No Objection.

COMMENTS ON CONSULTATION RESPONSES:

The applicant has agreed to the hours suggested by Environmental Health.

POLICY CONTEXT

Designation applicable to site:

Building of Special Character

Built-Up Area Boundary

Conservation Area

Archaeological Notification Area

DEVELOPMENT PLAN POLICIES

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

QEDM1	QE DM1 Noise Pollution
QEDM3	QE DM3 Air Pollution
QESP1	QE SP1 Quality of the Environment
DDM1	D DM1 Aspects of form and design quality

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 of 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 comply with relevant Development Plan policies in that there would be no

materially adverse impact on residential amenity by reason of noise and disturbance.

OTHER MATERIAL CONSIDERATIONS

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

CONCLUSIONS

PRINCIPLE:

The proposal seeks amendment to the hours of use of the outside seating area of the micro bar/coffee house. The area is approximately 3m by 5m and is located on the site frontage adjacent to the highway within the pavement area. The seating in this area indicated on the approved floor plan indicated a combination of seating on 2 benches along the perimeter of the site and chairs with a total of 4 tables. The coffee shop opened in August 2020 during the pandemic and has permission to open for business between 09.00 hours and 22:00 hours on Monday to Sunday, including Bank and Public Holidays, but the outside seating area use is restricted within these hours and is the subject of a separate permission A/189/20/PL.

Government guidance supports outside hospitality and it has recently been announced that pavement licences will be extended for another 12 months making it easier and cheaper for pubs, restaurants and cafes to continue to make al fresco dining a reality with outside seating and tables to serve food and drinks. These temporary provisions are currently due to expire on 30 September 2021, but to give further certainty to businesses secondary legislation will be introduced to extend these provisions for an additional year, subject to Parliamentary approval.

RESIDENTIAL AMENITY IMPACT:

Policy D DM1 of the ALP requires that when considering any application new development will have minimal impact to users and occupiers of nearby property and land, by avoiding significant loss of sunlight, privacy and outlook and unacceptable noise and disturbance.

Policy QE SP1 requires all development contributes positively to the quality of the environment and will ensure that development does not have a significantly negative impact upon residential amenity or upon leisure and recreational activities enjoyed by residents and visitors to the District.

Policies QE DM1 and QE DM3 set out the requirements to control noise and air pollution.

The proposal seeks permission to extend the permitted hours of use of the outside seating area. The hours of use are restricted by the imposition of condition 3 as set out above. The application was submitted to request daily hours of 9am to 10pm, but following the comments of the Environmental Health officer and Parish Council it has been agreed that the applicant would accept the hours being amended to 9am - 9pm Mon - Sat and 10am to 6pm on Sunday and B/H. This would be controlled by condition

The Resourceful Squirrel has had a temporary pavement licence for the past 6 months which was vital to the survival of the business. During this period there were no noise complaints and a temporary licence was granted between 0900-2100 hours daily. However, this needs to be balanced against the fact that the premises have been closed for much of this period and has been winter.

The existing outside seating when previously used did not impact upon residential amenity and had a

positive impact on the leisure and recreational activities of locals and visitors. The seating is positioned on the forecourt where it does not impact on access to the flats, exit from the Parish Council offices, or public passing by.

The Environmental Health officer has raised no objection to the proposed reduced increase in operating times. The other conditions imposed on the original would remain in place and still apply to the development.

With the existing previously imposed conditions in place relating to commercial deliveries and loud music any potential for neighbours to be disturbed in terms of noise will be minimised to an acceptable level. Existing activity levels and back ground noise levels would reduce the impact of noise generated in the evenings from the seating area. The Public House opposite has seating available outside adjacent to the road frontage and has the potential to generate noise until 10pm daily which is more than is proposed. Therefore any noise generated from the area would be acceptable in terms of it being in keeping with what is to be found in the area generally.

In conclusion, the proposal would have an acceptable impact on residential amenity, in accordance with policies D DM1, QE SP1, QE DM1 and QE DM3 of the Arun Local Plan.

SUMMARY:

For the above reasons the proposal would be in accordance with relevant development plan policies and permission is recommended 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.

RECOMMENDATION

APPROVE CONDITIONALLY

- 1 The outside seating area shall only be used between 9am - 9pm Monday to Saturday and 10am - 6pm Sunday and Public/Bank Holidays.

Reason: To protect the amenity of local residents in accordance with Policy QE SP1, QE DM1 and D DM1 of the Arun Local Plan

- 2 INFORMATIVE: This permission relates to the variation of condition 3 of planning permission A/189/20/PL only. The applicant is advised and reminded that the planning conditions attached to the original planning permission number A/189/20/PL remain in force and must be complied with. This decision only relates to the variation of Condition 3 of that planning permission.
- 3 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 assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.