

Recommendation Report for Planning Permission

REF NO: A/165/21/PL

LOCATION: The Vinery
Arundel Rd
Poling
BN18 9PY

PROPOSAL: Variation of conditions following grant of A/120/08 relating to Condition Nos 2 - operational hours.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION This application seeks an increase in working hours for the industrial buildings approved under A/120/08/.

Condition 2 of planning permission A/120/08/ states:

'The use hereby permitted shall not be operated on Sundays or Public Holidays or at any time otherwise than between the hours of 0700 to 1800 on Mondays to Fridays and 0700 to 1300 on Saturdays.'

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

The use hereby permitted shall not be operated on Sundays or Public Holidays or at any time otherwise than between the hours of 06.00 to 20:00 on Mondays to Fridays inclusive; 07:00 to 18:00 on Saturdays.

SITE AREA 0.3 hectares.

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

SITE CHARACTERISTICS The building is one of 11 units linked in a row by the external cladding, thereby making the overall length of approx. 95m with a height of 7.5m.

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. To the east of the site are 4 terraces of two-storey dwellings.

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/121/20/PL	Variation of condition 2-plans condition following A/177/19/PL for revised 'Proposed Site Layout Plan- Block Plan, Proposed Ground Floor Plan, Proposed First Floor Plan, Proposed Elevation Sheet 1, Proposed Elevation Sheet 2, Drainage Layout, Birds Eye View, Perspective View Looking North East and Perspective View Looking West.	ApproveConditionally 23-10-20
A/107/20/PL	Variation of condition 4 imposed under A/154/17/PL relating to hours of operation.	Refused 08-10-20
A/120/08/	Relocation and renovation of existing industrial buildings -Use for B8 Storage and distribution	ApproveConditionally 23-12-08

REPRESENTATIONS

Angmering Parish Council - No Objection.

One Support from occupier of neighbouring unit.

One Objection:

- This is the second time in the last year or so that the Applicants have tried to get a variation of the conditions relating to working hours.
- All the conditions were carefully thought out and inserted in the consent for good reasons - the safety, security and amenity of the residents at the Vinery being paramount.
- Nothing has changed either since the original consent or since the last time a variation was sought, save that, if anything, it is now even more important to protect the residents and the local environment.
- Spurious reasons why a variation should be made are cited.

COMMENTS ON REPRESENTATIONS RECEIVED:

This application is not directly comparable with the recent refusal A/107/20/PL which related to units much closer to the residential properties at the entrance to the site.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Environmental Health - No Objection.

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 comply with relevant Development Plan policies in that the proposed change in operating hours would not result in a materially adverse effect on the residential amenities of nearby properties.

OTHER MATERIAL CONSIDERATIONS

It is considered that there 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 considered that the proposal meets this requirement.

Government policy in the form of the NPPF Para 81 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. This development has been operational for a number of years and the individual units are being let to a variety of businesses. These units provide a very flexible option for businesses and as a result there is regular turnover of tenants moving up and moving on to different premises. It has become clear to the applicant that the operating hours condition is a discouragement to some potential tenants. This application therefore seeks to justify a relaxation of the condition. A letter of support from the letting agents is attached to the application. 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 81 of the NPPF.

The operating hours restrictions at the Vinery site were originally applied in relation to the planning application approved in November 2005 (A/14/05) to allow for the change of use of the site from mushroom production facility to industrial B1 and B8 uses. The restrictions on this permission were the same as the current application being 07.00 to 18.00 on Mondays to Fridays and 07.00 to 13.00 on Saturdays. Since the original approval, there have been at least another 8 planning approvals in, or adjacent to, the site. While most of these have reflected the original restrictions on hours of operation, a number have applied different variations. These include the following:

- The Fargo development adjoining the site - 06.00 to 18.00 on Mondays to Fridays and 0700 to 1300 on Saturdays.
- New industrial building to accommodate specialist classic bus restoration business (industrial B2) A/79/14/PL. 8.30 a.m. and 17.30 p.m. on Mondays to Fridays inclusive and not at any time on Saturdays, Sundays or Public Holidays.
- The Tributes building (B1/B8) A/177/19/PL for which no conditions restricting hours were imposed.

The proposed change in operating hours would not 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. 81). The proposed increase in working hours would not result in a significant increase in noise and activity at times when residents would expect to enjoy peace and quiet in their homes and gardens given the distance from residential dwellings.

IMPACT ON RESIDENTIAL AMENITY

The nearest residential development to that part of the site the subject of this application is over 110 metres away and activities at the site will not be readily noticeable. The main change in hours are a one hour earlier start Monday to Friday at 6am and a 2 hour increase at the end of the day until 8pm. No hours are proposed on Sundays and the increase in Saturdays is for 5 additional hours until 6pm. No other units have permission to operate on Saturday afternoons or start at 6am, but the extension of the hours of operation will not lead to additional traffic visiting the site, but will potentially spread visits over a longer period. In reality only a limited number of companies would work on a regular basis outside the existing approved hours.

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 is accepted that other units within the Vinery do not have such unrestricted hours of operation and those with least restrictions are located further from the existing residential dwellings to the east. The proposal accords with this rationale. The properties most affected in terms of amenity impact are the dwellings to the east and a previous application to alter the agreed times of operation for units at the entrance to the site was refused A/107/21/PL to ensure that the impact remained at acceptable levels and met the tests for imposition of conditions in that it was reasonable and necessary. This proposal relates to a different section of the site which is accessed from the section of roadway closest to the A27 and the internal access route to the units is 70m from these residential dwellings.

The environmental health officer has not objected to the proposal in terms of adverse effect by way of noise and disturbance at unsociable hours on nearby residential properties. The proposal is compliant 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 during hours when residential amenity should be protected.

CONCLUSION

For the above residential amenity reasons It is recommended that planning permission is approved 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 use hereby permitted shall not be operated on Sundays or Public Holidays or at any time otherwise than between the hours of 06.00 to 20:00 on Mondays to Fridays inclusive; 07:00 to

18:00 on Saturdays.

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 2 of planning permission A/120/08/ only. The applicant is advised and reminded that the planning conditions attached to the original planning permission number A/120/08//PL remain in force and must be complied with. This decision only relates to the variation of Condition 2 of that planning permission. The use of the building for B8 purposes is controlled by condition 6 of the original 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.