

Recommendation Report for Planning Permission

REF NO: A/59/22/PL

LOCATION: Vinery Fields
Arundel Road
Poling
BN18 9PY

PROPOSAL: Variation of condition 4 imposed under A/74/13 relating to hours of operation.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

This application seeks an increase in working hours for the industrial buildings approved under A/74/13 to allow limited extended hours of operation in the early evening within the external areas of the site and the ability to undertake certain packing and logistical operations within the main warehouse building on an unrestricted basis.

Condition 4 of planning permission A/74/13 states:

The storage and distribution warehouse hereby permitted shall not be operated on Sundays or Public Holidays or at any time otherwise than between the hours of 06.00 to 18.00 on Mondays to Fridays and 0700 to 1300 on Saturdays.

Reason: To safeguard the amenities of neighbouring properties in accordance with policy GEN7 of the Arun District Local Plan.

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

External operations of the storage and distribution warehouse including deliveries and dispatches hereby permitted shall not be permitted on Sundays or Public Holidays or at any time otherwise than between the hours of 06:00 and 20:00 on Mondays to Fridays and 07:00 to 18:00 on Saturdays. Internal operations of the storage and distribution warehouse are hereby permitted and are not restricted. Operations within the Yarmer barn at the North-east corner of the site and adjoining residential premises, shall not be permitted on Sundays or Public Holidays or at any time otherwise than between the hours of 07:00 and 18:00 on Mondays to Fridays and 07:00 to 13:00 on Saturdays.

BOUNDARY TREATMENT

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

SITE CHARACTERISTICS

Large warehouse style buildings.

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/74/13/	Proposed distribution warehouse and covered storage, trade counter and associated offices. Upgrading of access road for and improvement of existing junction with the A27. This application is a Departure from the Development Plan and affects a public Right of Way.	ApproveConditionally 24-01-14
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REPRESENTATIONS

None

COMMENTS ON REPRESENTATIONS RECEIVED:

None

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Environmental Health - No Objection subject to permission being based on a 6 month trial basis.

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

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, The South Inshore & South Offshore Marine Plan 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 there would be no materially adverse effect on residential amenity.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that the proposed change in operating hours would not result in a materially adverse effect on the residential amenities of nearby properties.

(2) in dealing with an application for planning permission the authority shall have regard to -

- (a) the provisions of the development plan, so far as material to the application,
- (aza) a post examination draft neighbourhood development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

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 the reasons set out below it is considered that the proposal meets this requirement.

Government policy in the form of the NPPF Para 82 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 allow the company greater flexibility to resource its workforce and operations in response to business pressures. Internal operations will generally apply to the process of order consolidation and palletisation within the main warehouse to facilitate prompt HGV loading for outbound logistics. This would allow the company's HGVs to avoid peak morning traffic on the A27. Only a small number of employees would arrive and depart the site outside of the hours approved for external operations - mostly by private car. The internal activities that will occur outside the currently permitted hours will not involve the use of any noisy machinery and will not be noticeable outside the building.

The change to the condition wording requested would facilitate easier plan and flex deliveries and allow peak time travel to be avoided and facilitate additional benefits for other related businesses in the local economy to operate more efficiently. Fargo's operations are critical to the local horticultural sector, much of which is based around Chichester. The West Sussex horticultural industry is the largest employer in the region, employing 6,500 permanent employees and 3,500 seasonal workers. Fargo currently has 69 employees. There are currently 5 designated commercial fleet drivers and a permanent warehouse staff of 13. This increases with temporary employees in the busy season by up to 18. The relaxation of the operating hours would accord with para 82 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 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 Tributes building (B1/B8) A/177/19/PL for which no conditions restricting hours were imposed.
- The Vinery A/165/21/PL which extended the hours to 06.00 to 20:00 on Mondays to Fridays inclusive; 07:00 to 18:00 on Saturdays.

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. 82). 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 and that the external use remains restricted.

IMPACT ON RESIDENTIAL AMENITY

The nearest residential development to that part of the site the subject of external deliveries is over 55m metres away and activities at the site will not be readily noticeable. The main change in hours is Monday to Friday 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. Other units have permission to operate on Saturday afternoons and until 8pm on weekdays. The extension of the hours of operation will not lead to additional traffic visiting the site but will potentially spread deliveries/despaches over a longer period.

It is accepted that other units within the Vinery do have such restricted 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 in that the Yarmer building which is within 10m of the adjoining properties in Lillian Terrace is not subject to the proposed increase in working hours and the entrance to the Yarmer building is 35m from the properties and faces away from them.

The original permission for the building is also subject to a noise condition (no7) which restricts noise levels from machinery and operations at the site so there are other controls in place protecting residential amenity.

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 on the basis that permission is granted on a 6-month trial basis. This allows for any noise complaints received in this period from neighbouring properties to be taken into account before the condition is amended fully. The temporary 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 Condition 4 to read:

External operations of the storage and distribution warehouse including deliveries and dispatches hereby permitted shall not be permitted on Sundays or Public Holidays or at any time otherwise than between the hours of 06:00 and 20:00 on Mondays to Fridays and 07:00 to 18:00 on Saturdays. Internal operations of the storage and distribution warehouse are hereby permitted and are not restricted. Operations within the Yarmer barn at the North-east corner of the site and adjoining residential premises, shall not be permitted on Sundays or Public Holidays or at any time otherwise than between the hours of 07:00 and 18:00 on Mondays to Fridays and 07:00 to 13:00 on Saturdays. The amended hours of operation of the site hereby permitted shall be discontinued permanently on 31-01-2023.

Reason: To enable the Local Planning Authority to review the special circumstances under which this permission is granted in In the interests of the amenities of the locality in accordance with policy D DM1 of the 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 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.
- 3 INFORMATIVE: This permission relates to the variation of condition 4 of planning permission A/74/13/ only. The applicant is advised and reminded that the planning conditions attached to the original planning permission number A/74/13 remain in force and must be complied with. This decision only relates to the variation of Condition 4 of that planning permission.
- 4 INFORMATIVE: This temporary use expires on 31-01-2023. After this date the use shall revert to the operating hours approved under condition 4 of the original planning permission A/74/13.