

Recommendation Report for Planning Permission

REF NO: BR/208/19/PL

LOCATION: The Hatters Inn
2-8 Queensway
Bognor Regis
PO21 1QT

PROPOSAL: Re develop & extend external drinking area complete with new railings, gates and wall to boundary.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application proposes to extend the external drinking area and erect new railings, gates and wall to the boundary.
SITE AREA	1172 sq/m
TOPOGRAPHY	Predominantly flat.
TREES	Undeveloped area of planting comprising bushes and trees to the north of existing outdoor area. Some trees along western boundary of site are shown as being retained.
BOUNDARY TREATMENT	To the west and south are rail fencing comprising c. 2m in height. Planting softens the hard nature to these boundaries. To the east is the existing building which comprises c. 3 storeys in height and benefits from planning permission BR/266/17/PL. To the north of the site is a block of residential apartments of c. 3 storeys in height.
SITE CHARACTERISTICS	The application site comprises an area of outdoor seating for the adjacent public house use. The northern aspect of the site currently comprises undeveloped shrubs, bushes and trees. The area is laid to hard surfacing in the form of paving. Vegetation along the railings and tree planting softens the appearance of the site from wider views in the locality.
CHARACTER OF LOCALITY	The application site falls within the Economic Growth Area of Bognor Regis. To the west of the site is the Sunken Gardens, a designated Local Green Space. To the north of the site is a three storey block of residential apartments. To the east of the site is the adjacent public house. The premises above benefit from planning permission BR/266/17/PL which permits residential use in the first floor and above. To the south of the site is the bowls club and Esplanade. The site is therefore typical of a town centre location.

RELEVANT SITE HISTORY

BR/50/19/PL Amendment to previously approved scheme

(BR/266/17/PL) for 24 flats. This application may affect the setting of a listed building & may affect the character & appearance of The Steyne, Bognor Conservation Area.

BR/45/19/PD	Notification for Prior Approval for the proposed change of use of a building from office use (Class B (a)) to 24 No. flats (C3) over two floors.	Objection 09-04-19
BR/39/18/PL	Alterations to previously permitted & implemented scheme for 24 units to form balconies to flats 1-10; external lift & staircase shaft; external walkway; winter gardens to flats 11-18; a further bedroom & shower room to flat 19 & an extension to living room to flat 22. This application may affect the character & appearance of The Steyne Conservation Area & may affect the setting of a listed building.	ApproveConditionally 25-05-18
BR/27/18/OUT	Outline application with all matters reserved to enlarge previously permitted 5-storey block comprising 24 units with no affordable provision to a 7-storey block comprising 56 units with a 30% affordable provision. This application may affect the character & appearance of The Steyne, Bognor Conservation Area & may affect the setting of a listed building.	
PAA/15/18/	Erection of a 56No. unit block of flats including a 30% affordable provision.	Refuse Pre App 20-03-18

Planning permission BR/266/17/PL permitted the 'alteration to previously implemented scheme for 24 flats to include a further 2 bedrooms and a further 2 bathrooms on a fifth floor. This application affects the character and appearance of The Steyne, Bognor Regis Conservation Area and may affect the setting of a listed building.'

This application has commenced, though it has not been implemented in full. It is understood that at the time of this assessment the building has not been converted in full and does not have any occupiers occupying the permitted residential apartments. The building is understood to comprise its existing use in a stagnant form at this stage which benefits from a live consent.

The approved plans detail that apartments 4 and 6 on first floor (BR/266/17/PL - plan ref: 15.005 01) have bedrooms and living spaces overlooking the existing outdoor area of the adjacent pub. Application BR/266/17/PL was submitted and approved on the basis that this relationship was considered acceptable. Specifically, apartment 6 is single aspect with its bedroom and living windows only opening over the outdoor amenity area at first floor level. This relationship for a single aspect property was assessed as being acceptable. This relationship comprised an original plan and was submitted by the

applicant as an acceptable proposed relationship.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Bognor Regis Town Council

BOGNOR REGIS TOWN COUNCIL

No objection.

One letter of objection from one party has been formally received throughout the application period. These letters detail the following:

1. We have a permitted and implemented planning application for residential flats immediately above the beer garden. The windows to bedroom and living rooms are circa 2-3m above the head of a potential customer who is likely to be drinking in a crowded space (and possibly smoking) and therefore fairly loud.
2. We cannot see reference to the hours of space to be used, but consider the space could be used so close to children's bedrooms after say 8pm. We seal of the flats on that elevation are two bedroom flats and due to their size and location it seems highly likely that they would be occupied by families with young children. Any application to permit any enhancement of the beer garden will inevitably lead to significant objections from the future occupiers of the flats from an environmental perspective.
3. The proposal vastly increases the beer garden area and also encourages customers further north into the garden which means our north facing flats are affected. Further, the flats on the corner which could have previously shut their west facing windows and opened their north facing windows to get ventilation, but limited sounds, will now have sound from both sides.
4. Arun has a desperate need for low cost housing (as proposed), especially in such a sustainable locations so close to shops and train station. We are concerned that vast extension to the beer garden will make the proposed flats less desirable and possible unviable to build.
5. The original vegetated area was conceived to de couple the houses and flats to the north from the noisy beer garden. The loss of this area will have a detrimental impact on the flats and houses to the north which will now have a beer garden some 1m from their windows.
6. We are also concerned that there is a creeping of the use evolving over time. Initially we believe the pub times increased, then the beer garden was formed then further licences were applied for.
7. We cannot see any evidence in the application that the garden needs to be increased. We are concerned that it may be used for something such as live music that is not being fully disclosed at present.
8. The application is invalid because our company owns the freehold and we have not been served on owners notice. Additionally, we have not seen a notice up on the site. This has meant we have only discovered the application yesterday and this has prejudiced our ability to object and discuss the matter with town council and environmental health etc. Please arrange for the application to be withdrawn and a fresh application correctly submitted with an owners notice.
9. The address is incorrect stated as 2 - 8 Queensway. It is 2 - 10 Queensway. Again, this has meant that anyone searching for the application using the correct address is unable to find the application and

this has prejudiced our ability to object in a timely way.

COMMENTS ON REPRESENTATIONS RECEIVED:

1. Application BR/266/17/PL has been commenced and remains live; however, it has not yet been completed and the residential use has not yet been implemented in full. The building still remains in its existing use in a stagnant form. At present there is no residential occupancy. The third party has not provided any details of when the development is to be completed and residential occupancy will occur.
2. Addressed in following sections of this assessment.
3. Addressed in following sections of this assessment.
4. Permitting this development would not make the proposed flats unviable to build. Whilst it is acknowledged it may alter the level of amenity afforded to 1 no. proposed apartment, this would not materially affect the delivery of the scheme. The Council does not consider the provision of affordable housing on this site would be prejudiced as a result of the proposed development. No evidence has been provided to demonstrate unviability, only a statement regarding less desirability.
5. The third party has not provided any detailed evidence from the Local Authority regarding the necessity for the vegetated area. There is no reference in the planning histories regarding this area being fundamental to safeguarding the amenities of neighbouring properties.
6. This does not comprise a material planning consideration. All applications are assessed on a case by case basis.
7. The acceptability of the proposal is not required to be justified on the basis of need.
8. This matter was brought to the applicant's attention by the Local Authority on 14 October 2019. The applicant proceeded to complete Certificate B on 02 December 2019 and serve a Notice on the owners under Article 13 of the Town and Country Planning (Development Management and Procedure) Order 2015. The owners have acknowledged receipt of this notice. Therefore, the submission accords with the legislative requirements.
9. The application sufficiently describes the location of proposed development and therefore accords with the Town and Country Planning (Development Management and Procedure) Order 2015.

CONSULTATIONS

Ecology Advisor

Environmental Health

CONSULTATION RESPONSES RECEIVED:

ARUN DISTRICT COUNCIL ENVIRONMENTAL HEALTH OFFICER
EH has no comments.

ARUN DISTRICT COUNCIL ENVIRONMENT OFFICER

Bats - the lighting scheme for the site will need to take into consideration the presence of bats in the local area and the scheme should minimise potential impacts to any bats using the trees, hedgerows and buildings by avoiding unnecessary artificial light spill through the use of directional light sources and shielding.

We require that a bat box is installed on the buildings onsite facing south/south westerly positioned 3-5m above ground.

Nesting birds - any works to the trees or vegetation clearance on site should only be undertaken outside the bird breeding season which takes place between 01 March - 01 October. If works are required within this time an ecologist will need to check the site before any works take place (within 24 hours of any work).

We would like a bird box to be installed on a building and or tree within the garden of the property.

COMMENTS ON CONSULTATION RESPONSES:

ENVIRONMENT - any presence of bats is covered under separate legislation. Best practice advocates not duplicating legislation which already sufficiently covers separate matters. Given the presence of the adjacent apartments permitted under BR/266/17/PL, and according activity and light spill along the south western elevation, it is unlikely that these conditions would be sufficient to support bat activity. Therefore such a condition would not meet with the paragraph 56 NPPF tests. A condition will be imposed to ensure tree and vegetation clearance is undertaken outside of bird breeding season.

POLICY CONTEXT

Designation application to site:

- Built up Area Boundary
- 2km Buffer of Bognor Reef and Felpham SSSIs
- Pagham Harbour Access Management Zone B
- Economic Growth Area

DEVELOPMENT PLAN POLICIES

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

DDM1	D DM1 Aspects of form and design quality
DSP1	D SP1 Design
EMPSP2	EMP SP2 Economic Growth Areas
QEDM1	QE DM1 Noise Pollution
QEDM3	QE DM3 Air Pollution
QESP1	QE SP1 Quality of the Environment
SDSP1	SD SP1 Sustainable Development
SDSP1A	SD SP1a Strategic Approach
SDSP2	SD SP2 Built-up Area Boundary

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 the Bognor Regis (2015 - 2030) Neighbourhood Development Plan

August 2015.

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

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 it complies with the Development Plan when taken as a whole and the material considerations identified throughout the consultation period are not considered to outweigh the compliance with the Development Plan.

OTHER MATERIAL CONSIDERATIONS

There are no other material considerations that comprise significant weight to warrant a decision otherwise than in accordance with the Development Plan.

CONCLUSIONS

PRINCIPLE

The application site falls within the Bognor Regis Economic Growth Area; an area designated specifically for the Council to enhance local employment opportunities. Support of existing employment generating uses are required to deliver this employment growth .

Policy EMP SP2 of the Arun Local Plan states that leisure developments will be directed to the Economic Growth Areas to promote their vitality, viability and regeneration. Policy EMP SP2 of the Arun Local Plan outlines that the Council will expect new development within the town centre to respect the character of the local area and provide for additional or enhanced leisure activities.

Supporting text (paragraph 8.5.3) details how the delivery of Policy EMP SP2 will be provided. It states that within these defined areas development proposals must demonstrate that they meet and/or further the core regeneration aims for the EGAs and their long term viability/sustainability. The core aims include:

- Improve the economic viability and vitality of the town centres by attracting new investment;
- Enhance the environmental/architectural quality of the townscape and public realm through improvements to spaces, buildings and street works/furniture;
- Increase the attractiveness of the towns as holiday destinations for visitors;

On the basis of the above, the extension and continued support to a leisure facility within an area specifically designated for future development that supports the leisure sector in this area is considered acceptable. However, all applications are required to be assessed against all other policies contained within the development plan and other material considerations.

RESIDENTIAL AMENITY

Policy QE SP1 of the Arun Local Plan requires that all development contributes positively to the quality of

the environment and ensure that development does not have a significantly negative impact upon residential amenity. Policy QE DM1 of the Arun Local Plan requires that developers proposing new noise generating development must seek advice from an early stage to determine the level of noise assessment required. Criteria (b) of Local Plan Policy QE DM1 requires that a noise report must demonstrate that the development meets appropriate national and local standards for noise, as set out in Annex 1 of the Planning Noise Advice Document: Sussex.

Paragraph 127(f) of the NPPF states that planning decisions should ensure developments create places with a high standard of amenity for existing and future users. Paragraph 180 of the NPPF states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health and living conditions as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should: mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life.

Annex 1 of the Planning Noise Advice Document: Sussex details that Entertainment Premises are required to abide by the Relevant Local Authority Licensing Policy. It requires that 'any amplified sound (including music and speech will be inaudible within any nearby noise sensitive premises with or without one or more windows open'. In this instance, the licensing restrictions do not allow amplified noise.

A Noise Impact Assessment has been provided that details no unacceptable impacts upon neighbouring amenity would result. This is based on a number of recommendations including the development being undertaken in accordance with the proposed boundary/landscaping treatments and cessation of the outdoor area by 2100 hours each day.

Concern has been raised by third parties regarding the impact of noise on the affordable housing dwellings permitted under BR/266/17/PL. Although these have not been completed and not brought into use, the extended area would only have additional implications on Apt 1 at first floor level. Apts 5 and 6 were permitted under application BR/266/17/PL with this same relationship to the outdoor area. The applicants submitted this floor plan on the basis this relationship was able to achieve an acceptable standard of amenity. This relationship was considered acceptable within the noise reports submitted as part of the above application. This relationship would be the same for Apt 1 with the extended outdoor space.

Therefore, the acceptability of this application derives around balancing the needs of Apt 1 of planning permission BR/266/7/PL against the wider economic needs of the Bognor Regis Economic Growth Area, within the confines of the proposed Noise Impact Assessment restrictions. The lounge/dining area to Apt 1 is dual aspect and has inward opening doors along the northern elevation; an elevation unaffected by the proposed development. The development would therefore only impact upon the 2 no. bedrooms of Apt 1.

The use of the outdoor area would be restricted by the terms of the premises licence. The Local Authority licensing team have confirmed that they are able to impose conditions at any point, which allows sufficient scope to control the development under separate legislation, if any unacceptable living conditions were experienced. The applicant has suggested a restriction of use of the extended outdoor area until 2100 hours each day, which is considered to meet the tests of paragraph 56 of the NPPF. A condition will be imposed provide this additional barrier of control.

The Local Plan requires the support of leisure facilities in an area which requires economic growth which has been acknowledged as being of such significance through its allocation within the plan period. Any such harm that results on Apt 1. of BR/266/17/PL is considered to be at the lower end of the scale and

great weight is given to the continued support of leisure facility in an area that has experienced significant decline in recent years.

The amenities of the apartments being sought to be maintained are located within a town centre location where a culmination of uses are present within the nearby vicinity. A level of noise and activity is not unexpected nor unacceptable, given the location of these apartments.

For the reasons outlined above, the proposed extended outdoor area would not prevent the primary habitable accommodation of Apt 1 from achieving an acceptable level of amenity and the premises licence provides adequate controls to ensure the amenities of the bedrooms are safeguarded.

Taking these factors into account the development would not have an unacceptable impact upon the amenities of the future occupants of planning permission BR/266/17/PL and would therefore accord with Policies QE SP1 and QE DM1 of the Arun Local Plan and paragraphs 127 and 180 of the NPPF.

It is acknowledged that concern has been raised regarding the proximity of the adjacent apartment block to the north. However, owing to the boundary treatments (detailed further below) and enclosed nature of the proposed extended area (which would be secured and safeguarded by way of condition), and available powers through the Council's Licensing Team, the development would provide sufficient levels of amenity in accordance with Policies QE SP1 and QE DM1 of the Arun Local Plan and paragraphs 127 and 180 of the NPPF.

TREES/LANDSCAPING/BOUNDARY TREATMENTS

Policy D SP1 of the Arun Local Plan requires all development proposals to make efficient use of land in their layout, finish, architectural details and landscaping.

The proposals include the provision of black metal railings rising to c. 2.2m in height along the western and southern boundaries. Trees within these boundaries are shown as retained on the plans. These boundary treatments comprising railings allow visibility into the adjacent Local Green Space to the west which enhances these areas of public space. It allows for visibility and natural surveillance into the space within evening hours. The railings comprise a like-for-like replacement of current boundary treatments which ensures the proposed boundary treatments accord with the character of the area.

To the north of the site a new 2.1m high boundary wall is proposed which would screen the new boothed seating with millboard canopies above. The effect of this northern boundary treatment, with the proposed seating booths with canopies overhead, is that any sound would be deflected back into the site. The proposed boundary treatments therefore mitigate potential impacts relating to noise.

Given the importance of the northern boundary wall in securing adjacent residential amenity, a condition will be imposed requiring the provision of the 2.1m boundary wall prior to the extended outdoor area is brought into use. Such a condition meets with the tests contained within paragraph 56 of the NPPF.

All boundary treatments and proposed landscaping would accord with the existing character of the area and are therefore fulfil Policy D SP1 of the Arun Local Plan.

NATURE CONSERVATION

The proposal seeks the removal of overgrown bushes and trees within an undeveloped area. Whilst this area is of limited aesthetic value, the Council's Environment Officer has specifically requested that there is a potential for nesting birds to be present within this area. Therefore, a condition should be imposed requiring any removal of this vegetation to be removed outside of the bird nesting season (01 March - 01 October) to ensure nesting birds are not affected. Should removal of this overgrown vegetation be required within this period then an ecologist should be consulted with no more than 24 hours prior to the

removal of this vegetation. Such a condition satisfies the tests contained within paragraph 56 of the NPPF.

SUMMARY

The development is considered to comply with Development Plan policies in relation to the principle of development, residential amenity and trees/landscaping/boundary treatments. Whilst the issues raised within the public consultation period have been considered, for the reasons set out in this assessment, the development would not give rise to unacceptable living conditions. Therefore, the development accords with the policies contained within the Development Plan and there are no material considerations that have been identified that would outweigh this compliance.

HUMAN RIGHTS ACT

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 development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby approved shall be carried out in accordance with the following approved plans 1125 00.1 A Location Plan and Site Plan, 1125 002.2 Ground Floor: Proposed Garden Plan and 1125 012 Ground Floor: Fence and Gate Details.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in

accordance with policies QE SP1 and QE DM1 of the Arun Local Plan.

- 3 The removal of the tree and vegetation clearance hereby permitted by this planning permission shall only be undertaken outside of the bird nesting season which takes place between 01 March - 01 October. If works are required within the bird nesting season an qualified ecologist will be required to check the site before any works take place, within 24 hours of any work.

Reason: To ensure the protection of biodiversity in accordance with policy ENV DM5 of the Arun Local Plan.

- 4 The use of the extended outdoor area hereby permitted by this permission shall comprise 0800 - 2100 hours Sunday to Thursday and 0800 - 2100 hours on Friday and Saturdays only, unless otherwise agreed in writing with the Local Planning Authority. Throughout these hours the development shall be undertaken in accordance with Appendix E of the Spectrum Noise Assessment Report submitted on 16 December 2019.

Reason: To safeguard the amenities of adjacent occupants in accordance with policies QE SP1 and QE DM1 of the Arun Local Plan.

- 5 Prior to the use of the extended outdoor area hereby permitted by this planning permission, the boundary treatments detailed in the approved plans shall be provided. Once provided, the boundary treatments hereby approved by this planning permission shall be retained as such at all times thereafter, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To safeguard the amenities of adjacent occupants in accordance with policies QE SP1 and QE DM1 of the Arun Local Plan.

- 6 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.

- 7 INFORMATIVE: This permission conveys consent under planning legislation only and contravention with other legislation e.g. protection of wildlife etc. should be considered.