

Recommendation Report for Planning Permission

REF NO: FG/115/18/PL

LOCATION: 58 Ferring Street
Ferring
BN12 5JP

PROPOSAL: Continuance of use without compliance with condition 3 imposed under FG/11/18/PL relating to Noise Management Plan.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above. The proposal seeks approval of the Noise Management Plan required as part of the approval of FG/11/18/PL which granted permission for change of use of the front portion of the site from a restaurant use to a bar/restaurant use and alteration of the opening hours.
SITE AREA	46 sq m
TOPOGRAPHY	Predominantly flat.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	Building elevations form the boundaries to the side and front
SITE CHARACTERISTICS	The site is occupied by a two storey building that is part of a parade of shops. The front part of the premises has already been converted to a bar area.
CHARACTER OF LOCALITY	Mixed, mainly retail units at ground floor, some residential and commercial uses.

RELEVANT SITE HISTORY

FG/11/18/PL	Change of use of front room of restaurant from Class A3 (A3 Food & Drink) to Class A3/Class A4 (A3 Food & Drink & A4 Drinking Establishment) & altered hours of operation.	ApproveConditionally 27-04-18
FG/199/16/PL	New shopfront & gate at the front of the unit. Block off existing door at the rear & create new levelled entrance with security gate	ApproveConditionally 16-02-17
FG/172/15/PL	Rear extension to restaurant	ApproveConditionally 05-01-16

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Ferring Parish Council

Ferring Parish Council

First Response - Objection

It is appreciated that the business is now trading without a noise compliant plan and the parish council are not aware of any complaints to date, however we are aware that no music events have taken place therefore there has not been the opportunity to provide evidence to suggest a noise issue or otherwise.

Ferring Parish Council request that the recently submitted noise reduction plan is considered and put in place by Officers at their next available meeting

Second Response - No Objection

The issue that the Parish Council had was that trading was to continue without the noise management report being submitted by the applicant. Now that it has been submitted and considered satisfactory by the officer, we do not need to take any further action and no longer need to maintain our objection.

COMMENTS ON REPRESENTATIONS RECEIVED:

None

CONSULTATIONS

Environmental Health

CONSULTATION RESPONSES RECEIVED:

Environmental Health - No Objection to the updated noise management plan. Satisfied that it reflects what was asked for and therefore can agree discharge of condition in respect of providing a noise management plan.

COMMENTS ON CONSULTATION RESPONSES:

- comments noted

POLICY CONTEXT

Designation applicable to site:

Within Built Up Area Boundary

Class C road

DEVELOPMENT PLAN POLICES

DSP1	D SP1 Design
QEDM1	QE DM1 Noise Pollution
QESP1	QE SP1 Quality of the Environment

[Ferring Neighbourhood Plan 2014 Policy 8](#)

Village Centres

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.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area.

Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation(Reg.14).

Policy 1A & Policy 8 Village Centres of Ferring Neighbourhood Plan are considered relevant to determination of this application.

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 would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it have an adverse impact upon the established character of the surrounding area.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

PRINCIPLE:

The site is located within the built-up area where the principle of development is acceptable, subject to compliance with relevant planning policies. In this instance the main considerations that the application

will be assessed against are contained within Arun Local Plan policies DDM1 Aspects of form and design quality, QE DM1 Noise Pollution and Policy QE SP1 Quality of the Environment which seeks to protect the character and amenities of the surrounding area, the amenities of any neighbouring residents and the safe movement of pedestrians and vehicles.

Policies 1A and 8 of the Ferring NP are also relevant Development Plan policies.

RESIDENTIAL AMENITY

The change to the use of the front part of the premises from restaurant use to bar area has been approved and the use is operating. The site previously had customers consuming alcohol in this portion of the site and entering and leaving the premises in this area. The only part of the proposal that has not already been approved and can therefore be considered is the noise generated from the proposal. When application FG/11/18/PL was approved, in order to protect residential amenity, several restrictive conditions were imposed, including condition 3 which stated:

"Within 2 months of the date of this decision details of a Management Plan shall be submitted to and approved by the Local Planning Authority to ensure the quiet and orderly arrival and exit/dispersion of patrons, and to prevent any congregation of patrons in the immediate vicinity outside the bar/restaurant. This should also include provision for the quiet disposal of glass waste and timely removal of bins for early morning collection and no music outside the immediate bar/restaurant areas. Any music within the venue to be background music alone. The premises shall operate in accordance with the details so approved."

This application has been submitted to address the requirements of the condition. Policy QE DM1 requires new noise generating development to be supported by a noise report providing accurate information about the existing noise environment and the likely impact of the proposed development on the noise environment. Following negotiations with the environmental health officer a revised Noise Management Plan 2 has been submitted which identifies a range of potential noise sources and details what steps will be taken to manage noise pollution. This has been considered and agreed by the environmental health officer. The proposal would therefore have no materially adverse effect on the residential amenities of adjoining residential properties and therefore accords with policy DDM1(3) and QE SP1 of Arun Local Plan.

Although the application description of this application takes the form of a revised application in relation to condition 3 of planning permission FG/11/18/PL there is a need to impose the other conditions of FG/11/18/PL on this application decision, since the application has been submitted on variation of condition forms. Approval of this application would therefore result in the issuing of a new and altered updated permission.

The application is recommended for approval 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 development hereby approved shall be carried out in accordance with the following approved plans : Site/Location Plan 01-01 revC
Proposed GA (General Arrangement) plan dwg. BD 1690 02-01 Rev A

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy DDM1 of the Arun Local Plan.
- 2 The premises shall only operate during the following times:
Restaurant: 08:30 hours to 23:00 hours Monday to Saturday; 08:30 to 22:00 hours on any Sunday, Public or Bank Holiday
Bar: 08:30 hours to 22:30 hours Monday to Saturday, 08:30 to 22:00 hours on any Sunday, Public or Bank Holiday

Reason: To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties in accordance with Arun District Local Plan policies DDM1 and QE DM1.
- 3 The premises shall operate in accordance with the Noise Management Plan 2 dated October 2018.

Reason: To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties in accordance with Arun Local Plan policies DDM1 and QE DM1 .
- 4 Deliveries by commercial vehicles shall only be made to or from the site between the hours of 08.30 and 18.00 hours Monday to Friday/Saturday and 08:30 to 13:00 hours Saturday and not at all on any Sunday, Public or Bank Holidays without the prior written consent of the Local Planning Authority.

Reason: In the interests of amenity in accordance with Arun District Local Plan policies DDM1 and QE DM1 .
- 5 INFORMATIVE: This proposal does not purport to grant planning permission for the indicative outside seating area which is indicated on the Proposed General Arrangement Plan and is

outside the red edge of the application site . A separate application would need to be submitted for consideration for this use.

- 6 INFORMATIVE: The applicant shall advise the Environmental Health Department of the changes to this premises noted in this application by submission of a new Food Business Registration Form. Please contact the Environmental Health Team should you require further clarification.
- 7 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.