

Recommendation Report for Planning Permission

REF NO: FG/11/18/PL

LOCATION: 58 Ferring Street
Ferring
BN12 5JP

PROPOSAL: 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.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above. The proposal relates to change of use of the front portion of the site from a restaurant use to a bar/restaurant use and the opening hours to be altered to Monday - Saturday 0800 to 2400, Sunday & Bank Holiday 0900-23.30.
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/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
FG/108/86	Change Of Use From Coffee Shop To Licenced Restaurant On Ground Floor	ApproveConditionally 29-10-86

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

2 Objections - Concerns as to noise issues which have increased recently late at night to the extent the Police are called. Noise is generated when people leave the premises and people occupy the pavement for smoking, drinking and loud conversations which will increase with this proposal. Rear amenity area is blighted by cooking odours..

Also concerns as planning notice had not been attached in a prominent place to property.

COMMENTS ON REPRESENTATIONS RECEIVED:

The application has been advertised in accordance with procedure.

Concerns relating to noise generation and the completion and occupation of the adjacent flats are noted and it is proposed to impose conditions restricting opening hours and requiring submission of a Management Plan to reduce noise generation and nuisance from the premises. However the use of the premises as a restaurant is existing and is a material planning consideration. Noise generated from the use of the premises as a restaurant is already permitted and is only partially restricted in relation to opening hours. The hours of the rear extended part of the premises as a restaurant are restricted under permission FG/172/15/PL to 0800hrs and 2300hrs daily. There were no restrictions imposed under FG/108/86 when the premises were originally changed to a restaurant.

The proposal does not include the principle permitted use as a restaurant and cooking odour cannot therefore be considered as part of this proposal.

CONSULTATIONS

Environmental Health

CONSULTATION RESPONSES RECEIVED:

Environmental Health - No Objection

Conditions relating to a Noise Management Plan, hours of operation and outside seating are suggested.

COMMENTS ON CONSULTATION RESPONSES:

The suggested opening hours have been imposed as conditions. The outside seating area is not part of this proposal. It is outside of the red edge of the application site.

POLICY CONTEXT

Designation applicable to site:

Within Built Up Area Boundary

Class C road

DEVELOPMENT PLAN POLICES

[Arun District Local Plan \(2003\):](#)

GEN7 The Form of New Development

GEN32 Noise Pollution

[Publication Version of the Local Plan \(October 2014\):](#)

D DM1 Aspects of Form and Design Quality

D SP1 Design

QE DM1 Noise Pollution

[Ferring Neighbourhood Plan 2014 Policy 8](#)

Village Centres

Ferring Neighbourhood Plan 2014 Policy 1A

A Spatial Plan for the Parish

PLANNING POLICY GUIDANCE:

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

A new local plan is in preparation and is a material consideration when determining Planning Applications. At this stage the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and supporting documents were submitted for independent examination on 30 January 2015.

A number of Main Modifications to the Arun District Local Plan 2011-2031 (Publication Version) October 2014 were approved by the Council on 22nd March 2017 and consultation on these has taking place. The Main Modifications should be read alongside the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and where there are changes the Main Modification. The examination was completed in September 2017.

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. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. 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).

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton.

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 District Local Plan policy GEN7 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.

CHARACTER & APPEARANCE:

The site is located within a retail area which possesses a mixture of retail and commercial uses. It is considered that the use would be in keeping with the character of the restaurant premises and the area generally. The site was in use as a restaurant within a village centre and the proposal would not therefore result in the loss of a retail use and accords with policy DEV30 of Arun District Local Plan and Policy 8 of Ferring Neighbourhood Plan. The proposal could not therefore be resisted on this basis.

AMENITIES:

It is not considered that the change to the use of the front part of the premises from restaurant use to bar area would have a materially greater adverse impact on the residential amenities of neighbouring properties. The site previously had customers consuming alcohol in this portion of the site and entering and leaving the premises in this area. It is unlikely that activity in this area from customers would significantly increase. However to ensure that any additional noise impact on adjoining properties is controlled conditions which restrict the opening hours and provide greater control than was previously the case have been imposed.

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 GEN7 of the Arun District 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 policy GEN7.

- 3 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.

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 policy GEN7.

- 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 GEN7 and GEN32.

- 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 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.