

Recommendation Report for Planning Permission

REF NO: FG/156/18/PL

LOCATION: Andalucia Restaurant
58 Ferring Street
Ferring
BN12 5JP

PROPOSAL: Outdoor seating area on pavement consisting of 2 No. tables & 4 No. chairs to be stored when not in use.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Provision of an outdoor seating area on the pavement consisting of 2 No. tables and 4 No. chairs to be stored when not in use.
	The tables and chairs would occupy a space of pavement area measuring 3.7m wide and 0.7m deep adjacent to the front bi-fold windows of the restaurant. The space would be located underneath the existing projecting canopy when it is fully extended.
SITE AREA	250sqm.
TOPOGRAPHY	Predominantly flat.
TREES	N/A.
BOUNDARY TREATMENT	The front elevation of the restaurant would form the rear elevation to this development. The other three sides are open to the pavement.
SITE CHARACTERISTICS	The site is occupied by a two storey building that is part of a parade of shops. The front of the unit is a bar and the rear a restaurant. The first floor comprises of three flats situated over this property and the neighbouring Charity Shop.
CHARACTER OF LOCALITY	Mixed, mainly retail units at ground floor, some residential and commercial uses. A Cafe further along the parade already has a small outside seating area, however, this is located on an area of hardstanding that does not form part of the pavement. The site is located within a retail area containing a mixture of Charity Shops, Convenience Store, Cafe and Pet Food Shop amongst others. All of the retail units south of the railway line are located on the eastern side of Ferring Street.

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 &	ApproveConditionally 27-04-18
-------------	---	----------------------------------

Drink & A4 Drinking Establishment) & altered hours of operation.

FG/115/18/PL	Continuance of use without compliance with condition 3 imposed under FG/11/18/PL relating to Noise Management Plan.	ApproveConditionally 08-11-18
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

This site was granted permission earlier this year for the change of use of the front room to a bar with altered opening hours of 0800 to 2400 Mon-Sat and 0900-23.30 Sun & Bank Holidays (FG/11/18/PL).

The Noise Management Plan approved under FG/115/18/PL refers to one of the Key Elements as being to 'Minimise impact (on) local residents'. One of the approved steps is 'Management will monitor noise from the outside every 30 minutes and windows and doors will be closed as necessary to contain the noise which may cause nuisance to neighbours'. Also 'The Duty Manager will enforce a maximum capacity of 6 people outside at any one time to ensure noise from smokers and customers is kept to a minimum - a half hour check sheet will be used by the Duty Manager to check noise levels and the number of people outside'.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Ferring Parish Council

Objection

- Lack of space. Placing tables & chairs on a narrow pavement would cause unnecessary obstacles.
- Proposed location is not practical as adjacent to a busy bus stop.

Ferring Conservation Group - Object

- Placing tables on narrow pavement, very close to the bus stop, will create obstructions for pedestrians, wheelchairs and other traffic.
- WSCC should visit the site and not appraise via plans only.

3 objections from members of the public

- Would create unacceptable obstacles in a narrow pavement.
- Smokers would cause distress.
- Mobile scooter users would find it difficult to negotiate a route and may well be forced into the road.
- Welcome 'coffee culture' but definitely a lack of space. Would create a problem for passersby and bus passengers who would be forced to walk on the road.
- The drinks licence does not extend to the pavement area.

COMMENTS ON REPRESENTATIONS RECEIVED:

Compliance with the Premises Licence would be an issue dealt with by Environmental Health Legislation. Other comments noted and addressed below in the conclusions section.

CONSULTATIONS

WSSC Strategic Planning
Environmental Health

CONSULTATION RESPONSES RECEIVED:

WSSC - No objection and informative suggested. The use of the pavement for chairs & tables is not considered to have a severe impact on the highway.

Environmental Health - Recommend refusal due to insufficient space on pavement and potential for noise detriment.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted and addressed below in the conclusions section.

POLICY CONTEXT

Designation applicable to site:
Within the built-up area boundary.
Class C Road

DEVELOPMENT PLAN POLICES

DDM1	D DM1 Aspects of form and design quality
DDM4	D DM4 Extensions&alter to exist builds(res and non-res)
QEDM1	QE DM1 Noise Pollution
SDSP2	SD SP2 Built-up Area Boundary
TSP1	T SP1 Transport and Development

[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 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.

Policy 1A (A Spatial Plan for the Parish) of the Ferring Neighbourhood Plan is 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 not considered to comply with relevant Development Plan policies in that it would impede the free flow of pedestrians to the detriment of highway safety.

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 application is located within the built-up area boundary where the principle of development is acceptable subject to accordance with the relevant development plan policies as stated in SD SP2 of the Arun Local Plan. In this case the key policies are deemed to be D DM1, D DM4, D SP1 and T SP1 of the Local Plan.

Policy D DM1 sets out 13 design aspects of which applications should be assessed against. These include: Character, Appearance, Impact, Innovation, Adaptability, Crime Prevention, Trees, Public realm, Layout, Public Art, Density and Scale.

Policy D DM4 sets out criteria for which applications relating to extensions and alterations of existing buildings must be assessed against. They generally seek to minimise the impact of the proposal on the character of the host dwelling, its neighbours and the locality.

Policy QE DM1 suggests developers proposing new noise generating development seek advice from an early stage. It also states that proposals will need to be supported by a) evidence that there are no suitable alternative locations and b) a noise report which provides accurate information about the existing noise environment and the likely impact of the proposed development upon the noise environment.

Policy SD SP2 of the Arun Local Plan states that development should be focused within the Built Up Area Boundary and will be permitted subject to consideration against other policies in the Local Plan.

Policy T SP1 seeks to ensure that growth in the District reduces congestion and promotes healthy lifestyles. It also confirms that the Council will ensure that developments provide safe access on to the highway network.

Policy 1A of the Ferring Neighbourhood Development Plan states that proposals within the Built Up Area

Boundary will be supported, subject to accordance with other relevant development plan policies.

HIGHWAY SAFETY

Although the measurements given for these seats and tables show them as 'fully extended' it would be impossible to sit down without moving the seats back in the first instance. There does not appear to be any room to manoeuvre the two middle chairs which are back-to-back and it is considered that this arrangement would soon be changed to afford better access, therefore decreasing the amount of useable pavement for pedestrians.

The fact that all of the shops are located along one side of this thoroughfare means that this development would have an unacceptable impact on the main pedestrian access route for foot passengers and those using mobility scooters and pushing prams.

In addition, there is a bus stop located approximately 3m to the east of the proposed seating area along with the bus parking area. The 700 bus operates every 10 mins and another service runs hourly. This would exacerbate, through possible congestion, pedestrian difficulties in the vicinity of the outside seating area.

In summary, if this development was approved pedestrians would no longer be able to walk unimpeded along this section of the pavement. With the seats in use pedestrians would have to walk around these and then back to the other side of the pavement to move past the bus stop and any waiting passengers.

Although WSCC have raised no objections to this proposal on closer examination there would be an unacceptable impact to pedestrians for the reasons cited above.

This proposal is therefore not considered to comply with the aims of T SP1 in that it would add to congestion and restrict safe access on to the highway network.

AMENITIES

Due to the limits imposed by the Noise Management Plan referred to above and agreed by the approval of FG/115/18/PL, it is not considered that this development would result in a material increase of existing noise levels from this proposal for the residents of properties above and surrounding area.

SUMMARY

Subsequently it is recommended that the application be refused for the following reasons.

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), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal 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

REFUSE

- 1 The proposal, if permitted, would result in the introduction of an activity in a location which is physically unsuitable to accommodate that said activity by reason of width and lack of space for users to congregate and thus likely to cause obstruction to the safe use of the pavement by all types of users in conflict with policy T SP1 of the Arun Local Plan 2011-2031.
- 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 and has clearly set out, within its report, the steps necessary to remedy the harm identified within the reasons for refusal - which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.