

Our Ref: PD/2755
Your Ref: FG/159/18/PL

Mrs. Anita Gardener
Arun District Council
1 Maltravers Road
Littlehampton
West Sussex
BN17 5LF

6th November 2018

Dear Mrs. Gardner,

Two-storey extension to the existing Cafe in order to provide increased internal seating, multi-purpose space, with improved service & food preparation area, disabled access & bike storage at The Bluebird Café, South Drive, Ferring, BN12 5QU
Council Ref: FG/159/18/PL

Introduction

We are instructed to raise objections to the above application on behalf of Mr. Sarosh Zaiwalla, Ms Freya Zaiwalla and Mr. Varun Zaiwalla. Our clients are the owners and occupiers of 'Neptune', Gorse Avenue, Kingston Gorse, East Preston, Littlehampton, BN16 1SF. 'Neptune' is the closest residential property to the application site. Our client's property is outlined in red below. At its closest point, our client's property is just 15 metres from the existing café building.



Figure 1: 'Neptune' shown in relation to the Bluebird Café.

The starting point for the determination of this planning application is Section 38 (6) of the Planning and Compulsory Purchase Act 2004. This requires planning applications to be determined in

accordance with the policies in the Development Plan, unless other material considerations indicate otherwise.

The relevant documents that comprise the Development Plan are:

- Arun Local Plan (2011 -2031) (adopted July 2018)
- Ferring Parish Neighbourhood Plan (made January 2015)

In addition to these documents, there is also a need to consider relevant planning policy contained within the National Planning Policy Framework (2018) (NPPF) which is itself a material consideration in the determination of the planning application.

In our view, the proposed development does not comply with the relevant policies contained within the Development Plan and no compelling material considerations are presented by the applicant to justify deviation from the policies. The application should therefore be refused. We have set out the reasons for this below.

Principle of Development

The application site lies in a countryside location outside of the built up area boundary. The Arun Local Plan confirms the Council will *"protect the natural environment by **strictly controlling development in the countryside**"* (Paragraph 7.2.1) (my emphasis). Paragraph 7.2.1 goes on to cite the countryside as an *"important designation"*.

The applicant's Planning Statement suggests that *"countryside policies maybe deem applicable"* (Paragraph 6.4). There is no maybe about it. The application is subject to consideration of Policy CSP1. This permits development in the countryside subject to a number of criteria. The applicant seeks to rely solely on criteria F of this policy which confirms development will be permitted in the countryside where it is *"in accordance with other policies in the Plan which refer to a specific use or type of development."* We infer that the applicant accepts that the proposal does not comply with criteria A to E since they make no case in favour of this. This being the case, if, contrary to the applicant's suggestion, the proposal is not in accordance with criteria F, it should be refused planning permission.

The applicant cites another criteria-based policy as an example of a policy in the plan which refers to a specific use or type of development. Policy EMP DM1 has regard to employment land for Development Management purposes. Part 6 of this policy concerns economic growth outside the built-up area boundary. In our view, the development as proposed does not comply with the

requirements of this policy, specifically criteria e which requires that access arrangements and parking facilities will be provided in accordance with the Council's adopted standards, and criteria g which requires a satisfactory relationship with neighbouring uses in order that the amenities of nearby residents, in particular, are protected.

Access and Parking

The existing car parking provision for the café consists of a nearby public car park which offers 100 unallocated spaces. These spaces are freely available to the public to use and the café has no control over the public's use of these spaces. The applicant contends that the use of this car park is sufficient to support the proposed intensification of use at the site, from 135 person capacity to 235. The applicant does not own the car park which is instead owned by eight separate landowners, with the café possessing a right for customers to use it. The Transport Report acknowledges that the car park is *"well used, particularly in the summer holiday periods, for users of the nearby beach huts, dog-walkers and general beach users"*. However, it fails to define what *"well used"* means in reality and no survey of use has been undertaken by the applicant during peak summer periods, or any period for that matter, and instead has considered the café's use of the car park in isolation.

Parking demand for the proposed increase in capacity at the café has been calculated in the Transport Statement in respect of potential daily footfall from visitors of the café. Taken at a worst case scenario where all 235 seats are filled simultaneously and measured at a vehicle occupancy rate of 2.5 people per vehicle, it is predicted that this would result in a vehicle accumulation of 94 cars. The Transport Statement estimates that the most likely scenario for the café will be 85% capacity with only 50% of arrivals made by cars; therefore producing a "maximum" vehicle accumulation of 40 cars plus an additional 7 for members of staff. It is on this basis that the applicant submits that the scheme accords with criteria e of policy EMP DM1.

Whilst it is considerably unlikely that the café would be able to rely upon there being 47 spaces daily during the peak summer periods, a critical flaw in this assessment is that it has not taken into account alternative scenarios created by the cumulative impact of visitors to the beach, etc along with the use of café for private function hire and the maximum capacity for car parking that this considerably different use would require following an increase in space at the premises. We have attached an extract at appendix A from the applicant's website which outlines the nature and extent of the private event use.

It is extremely unlikely that guests attending a private evening function (e.g. a wedding reception or other formal event) who do not live immediately proximate to the café would access the site by walking. Importantly, it is not mentioned within any application documents if the applicants intend to

restrict capacity at private events to 235 guests. Subsequently, it is impossible to conclude satisfactorily that the proposal presents any level of adequate parking, and on this basis, it is submitted that the proposal does not comply with criterion e of policy EMP DM1 and consequently, policy CSP1.

Residential Amenity

In their Planning Statement, the applicant states with respect to neighbouring amenity, *"potential for noise and disturbance generated by the enhanced facilities provided at the café is not anticipated as being significant due to the restricted opening hours that are proposed: (08:00 to 21:00 hours, 7 days a week). There is to be no change to the existing license that benefits the premises"*. The license currently benefitting the premises allows for private hire outside of opening hours, with alcohol being served until 11pm, and music (including a DJ or band) until 12am. There is no indication that the premises couldn't be hired out during these hours on weekdays. Given this contradiction between the Planning Statement and the information available on the café's website, it is difficult to predict with any certainty the actual closing hours of the café on a daily basis.

Despite the applicant's assertion in the Planning Statement that the café would be used for private events only in *"exceptional circumstances"*, the café has held events recently out of their usual opening hours in accordance with this license, and the occupants of Neptune have subsequently endured loud music played during the night until 12 am. An inevitable consideration here is that the applicant would most likely seek to increase the bookings of such events once the café has been expanded and upgraded; particularly during out of season periods when daily footfall is lower. Despite this, when assessing the proposal against criteria g of policy EMP DM1, the Planning Statement does not include explanation of how the amenities of the residents at Neptune and other closely located properties have been considered in relation to this use.

Policy QE SP1 of the Local Plan requires all new development to ensure that it does not have a significantly negative impact upon residential amenity. On this basis, it is suggested that in the absence of any assessment of the impact to neighbouring amenity, the proposed intensification of use at the site with unrestricted out of hours use would result in a deeply unsatisfactory relationship between the café and the neighbouring properties; most pertinently 'Neptune', which sits just 15 metres from the site at its closest point. In addition to noise pollution from music, there is a likelihood that alcohol consumption at private events could lead to antisocial behaviour that would result in a significant nuisance caused to residents in what is otherwise a tranquil and undisturbed area; particularly so if events were to occur during the week. Further to this, I consider that the extent of the use that would be available to the café should permission be granted as the application stands would be wholly inconsistent with the character and nature of the locality, which is designated

under the Ferring Neighbourhood Plan as an area of special character that is *"worthy of protection through rigorous control of new development."*

In addition, there would be a loss of residential amenity through overlooking resulting from the large terraced area. This is shown on drawing no. BCA200301 and indicates a large expanse of terrace at first floor level which would afford users of the café a birds eye view into the garden area of 'Neptune'. It features what the plans describe as a "balcony glazing system". The people depicted on the plans tower above the "balcony glazing system" and it will do nothing to ameliorate the significant adverse impact of overlooking on 'Neptune'. If the Council is minded to approve the terrace area it should feature 2 metre high privacy screen on the north and west elevations to protect the amenity of 'Neptune', although this approach would do nothing to reduce the adverse impact of noise from the terrace as we explain above.

Finally, amenity at would be compromised due to odours emanating from the extractor fans associated with the café. The smell of chip fat would not defuse before reaching the amenity area of 'Neptune' and would infiltrate the property in the summer (when the café is busiest) and the occupants of 'Neptune' are most likely to want to have their windows open.

For the above reasons we urge you to refuse the application on the grounds suggested.

We would welcome to opportunity to be consulted on any of the above matters and would wish to provide input on any relevant planning conditions, should the Council be minded to approve the application.

Yours Sincerely,

Mark Best BSc (Hons) MSc MRTPI
Planning Consultant

For an on behalf of Parker Dann



Appendix A

Bluebird

PRIVATE FUNCTIONS

MENUS VARY IN PRICE FROM £11.95

THE BLUEBIRD CAN CAN BE HIRED OUTSIDE GENERAL OPENING HOURS AS A VENUE FOR ANY OCCASION. WE ARE LICENSED UNTIL 11.00 PM FOR ALCOHOL PURCHASE AND 12 FOR MUSIC.

WE PROVIDE ALL FOOD & DRINK. CAN CATER FOR GROUPS FOR 40 -150.

PREMISES HIRE COST £75.00 PER HOUR (UP TO MIDNIGHT)
THIS INCLUDES:

- STAFF
- SOUND SYSTEM
- INDOOR & OUTDOOR SEATING
- CLEANERS

THE BAR:

A SELECTION OF CHILLED BOTTLED BEERS, SPIRITS, WINES & CHAMPAGNES

FOOD & DRINK / THE KITCHEN:

- BBQ
- HOG ROAST
- MENU, WHICH CAN BE MADE TO YOUR LIKING
- BUFFET
- GRAZING BOWLS

CALL NOW TO DISCUSS YOUR BESPOKE PARTY NEEDS 01903 503 033

ALCOHOL CONSUMED OUTSIDE ON BLUEBIRD CAFE PROPERTY MUST BE DECANTED (IN TO GLASS)

NO GLASS ON THE BEACH!

EXAMPLE BUFFET ONE £12.95

SELECTION OF LUXURY SANDWICHES ON FRESH BAKED BREAD
CHINESE CRISPY DUCK AND SPRING ONION PASTA
COCKTAIL SAUSAGES WITH HONEY, GRAIN MUSTARD MAYO
CHINESE SPICED CHICKEN DRUM STICKS
ROASTED MEDITERRANEAN VEGETABLE COUS COUS SALAD
BUFFALO MOZZARELLA, BASIL AND SUN BLUSH TOMATO QUICHE
CRISPY LEAF SALAD WITH OUR HOUSE MADE DRESSING

EXAMPLE BUFFET TWO £15.95

CRISPY LEAF SALAD WITH OUR HOUSE MADE DRESSING
CLASSIC CAESAR SALAD
HOMEMADE COLESLAW
NEW POTATOES SALAD WITH SPRING ONION AND SMOKED PAPRIKA
TOMATO MOZZARELLA AND ROCKET WITH BALSAMIC REDUCTION
SLICED CAJUN SPICED TOPSIDE OF BEEF SERVED WITH A CORIANDER
AND LIME YOGURT DRESSING
SLICED HOUSE MADE HONEY ROASTED HAM SERVED WITH A WHOLEGRAIN
MUSTARD MAYONNAISES
SELECTION OF BREADS, DIPS AND CRISP

WE CAN ALSO DO HOG ROAST, SIT DOWN MEALS,
BBQ AND FISH AND CHIPS NIGHTS.

MARQUEE'S

Add a little extra

A DJ/BAND CAN BE ACCOMMODATED AT YOUR OWN COST
CORKAGE FOR WINE £7.00 PER BOTTLE FOR CASKAGE £2.50 PER PERSON