

Recommendation Report for Planning Permission

REF NO: FG/19/21/PL

LOCATION: First Floor Flat
60 Ferring Street
Ferring
BN12 5JP

PROPOSAL: Change of use of flat above restaurant to a bar. This site is in CIL Zone 4 (Zero Rated) as other development.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Change of use of flat above restaurant to a bar.
SITE AREA	47 sq.m.
SITE CHARACTERISTICS	An existing flat above a restaurant.
CHARACTER OF LOCALITY	Ferring High Street commercial area.

REPRESENTATIONS

Ferring Parish Council - Objection

- Loss of dwelling.
- Noise impact on neighbours.
- Suitability of emergency exits.
- Possible use of outdoor patio area.

1 letter of support - Needed facility

2 letters of objection

- Noise levels on neighbouring flats.
- Traffic problems.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS**CONSULTATION RESPONSES RECEIVED:**

ADC Environmental Health - No objection subject to conditions.

COMMENTS ON CONSULTATION RESPONSES:

A construction hours condition is not considered necessary for such a minor development. No cooking facilities are planned at first floor level hence the requirement for extraction facilities is not considered

necessary.

POLICY CONTEXT

DEVELOPMENT PLAN POLICIES

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

DDM1	D DM1 Aspects of form and design quality
DDM4	D DM4 Extensions&alter to exist builds(res and non-res)
DSP1	D SP1 Design
EMPDM1	EMP DM1 Employment Land: Development Management
RETDM1	RET DM1 Retail development
QESP1	QE SP1 Quality of the Environment
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

SUPPLEMENTARY POLICY GUIDANCE:

SPD11	Arun Parking Standards 2020
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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.

No policies in the Neighbourhood Plan are considered relevant to 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."

Section 70(2) of TCPA provides that:-

(6)In dealing with an application for planning permission the authority shall have regard to:
 (a)the provisions of the development plan, so far as material to the application, a post-examination draft neighbourhood development plan, so far as material to the application,
 (b)any local finance considerations, so far as material to the application, and
 (c)any other material considerations.

The proposal is considered to comply with relevant Development Plan policies in that the development would not cause any harm to the residential amenity of neighbouring properties.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

PRINCIPLE

In this case, the key policies are D DM1, EMP DM1 and RET SP1 of the Arun 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 EMP DM1 states that the Council will promote and support positive measures to upgrade existing employment premises. It also states that there will be encouragement for existing firms wishing to expand.

Policy RET SP1 (4) refers to village and suburban centres. It states that there will be a presumption to retain existing retail uses. It also states that town centre uses should be concentrated in existing centres. It further states that Village and suburban centres, including shopping parades and stand alone shops form an important resource for businesses, visitors and residents.

There are internal alterations only and there would therefore be no impact upon the character of the area. The proposed use would include a seating area for approximately 15 customers. The number of customers of the restaurant would not grow significantly such that there would be a significant increase noise disturbance in the external environment.

There are other residential premises at first floor in adjoining properties. A scheme of noise insulation is proposed that would see plaster board and noise insulation panels attached to the existing walls. It is necessary to condition that this scheme of noise insulation is installed prior to the use at first floor. There is no external customer areas proposed or included within this application.

The loss of a flat is negligible to housing supply however the support of a thriving business sector is considered to outweigh the harm caused.

As a site within a village centre and an enlarged commercial use in that location, the proposals would accord with the requirements of EMP DM1 and RET DM1.

The parking is provided on and nearby the site in public parking serving Ferring High Street as a whole. This is considered acceptable and would meet the parking demand in accordance with the Arun Parking Standards SPD and Policy T SP1 of the Arun Local Plan.

The proposal accords with the Arun Local Plan and 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 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:

Proposed First Floor Plan and Party Wall Detail dwg.no. 02-01 dated 02.02.2021

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy D DM1 of the Arun Local Plan.

- 3 Prior to the first use of the premises, details of any plant (including ventilation, refrigeration and air conditioning) and / or ducting system to be used and the method of control of noise and vibration of this plant shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. The scheme shall ensure that the noise and vibration generated at the boundary of any noise sensitive property shall not exceed Noise Rating Curve: NR35 as defined within Table B.1: Noise Rating Values of BS 8233:2014. The equipment installed and commissioned shall be maintained in a condition and operated in compliance to the approved scheme whenever it is in operation so that it does not exceed NR35 as described above, whenever it's operating. After installation of the approved plant, no new plant or ducting system shall be used without the prior written consent of the Local Planning Authority.

Reason: To protect the amenity of local residents in accordance with Policy QE SP1 of the Adopted Arun Local Plan 2011 - 2031

- 4 Prior to the occupation of the premises, the proposals shown on the approved drawings for the insulation of noise for the first floor shall be implemented in full and thereafter be permanently maintained.

Reason: To safeguard the environment and the amenity of the adjoining properties in accordance with Arun Local Plan policy QE DM1.

- 5 The use hereby permitted shall not be operated on Sundays or Public Holidays or at any time otherwise than between the hours of 14.00 - 22.00 on Monday - Friday and 17.00 - 22.00 on Saturday.

Reason: To safeguard the amenities of the neighbouring properties in accordance with Arun District Local Plan policies QE SP1.

- 6 No demolition/construction activities shall take place other than from 08:00 hours until 18:00 hours (Monday to Friday) and from 08:00 hours until 13:00 hours (Saturday) with no noisy work on Sunday or Bank/Public Holidays.

Reason: To protect the amenity of local residents in accordance with Policy QE SP1 of the Arun Plan.

- 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.