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Arun District Council, Civic Centre, Maltravers Rd, Littlehampton, West Sussex, BN17 5LF
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From: Hebe Smith <Hebe.Smith@arun.gov.uk>
Sent: 24 September 2026 11:42
To: Planning.Responses <Planning.Responses@arun.gov.uk>
Subject: FW: C26-403 and FG/65/26/S73 – Further response and formal representation

Hello,

Please can this be uploaded as a representation to FG/65/26/S73.

Thanks,

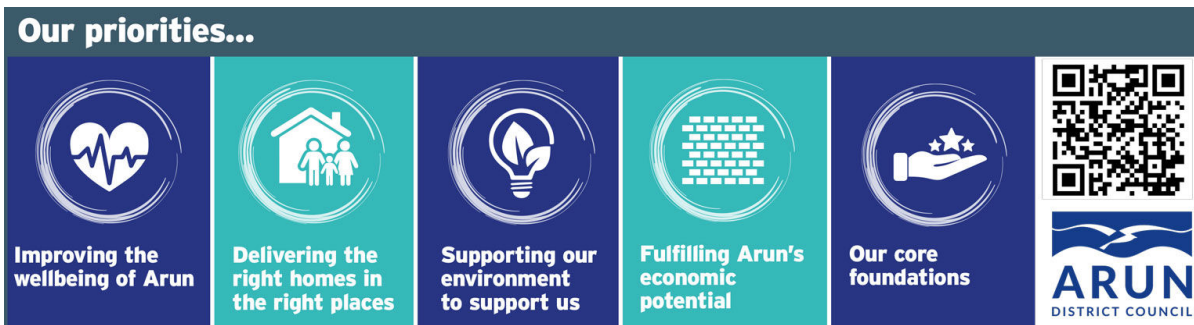
Hebe Smith (she/her)
Senior Planning Officer, Planning Department

T: 01903 737626
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To register to receive notification of planning applications in your area please go to [Planning application finder \(arun.gov.uk\)](#).





From: Denise [REDACTED]

Sent: 11 September 2026 13:34

To: Daniel Vick <Daniel.Vick@arun.gov.uk>; Neil Crowther <Neil.Crowther@arun.gov.uk>; Hebe Smith <Hebe.Smith@arun.gov.uk>

[REDACTED] Shayaanthy Lathan [REDACTED] [REDACTED]

Cllr. Roger Elkins <Cllr.Roger.Elkins@arun.gov.uk>; [REDACTED]

Subject: C26-403 and FG/65/26/S73 – Further response and formal representation

CAUTION: This email originated from outside of the organisation. You should take extra care when clicking links or opening attachments - if you are unsure the content is safe contact the IT Helpdesk before clicking or opening.

Dear Mr Vick,

Thank you for your email dated 11 September 2026 responding to my letter of 23 August 2026.

Please treat this email as both:

1. a follow-up concerning complaint C26-403; and
2. a further formal representation and objection to planning application FG/65/26/S73.

Please place it in full on the public planning file and bring it to the attention of the case officer and the determining officer.

Your response confirms that:

- no acoustic scheme was submitted or approved before the premises opened;
- the Council has no evidence that the required post-opening acoustic testing took place;
- the external seating constituted a breach of planning control;
- no planning permission has been granted for external seating; and
- after identifying the breach, the Council invited the applicant to submit this Section 73 application.

I acknowledge that the landlord has corrected the ownership information and that it has been placed on the planning file. I no longer raise the previous ownership-certificate issue as outstanding. However, tables and chairs continue to be placed outside the premises daily, and WSCC has confirmed that the barriers, planters and other items in the area constitute an obstruction. These matters reinforce, rather than resolve, my concerns.

1. Acoustic requirements

Your response states that only Condition 5 required formal discharge. However, the absence of a

formal discharge application requirement does not remove the obligation to comply with other conditions or requirements of the permission.

The original permission included acoustic attenuation measures and testing by a competent acoustician within six weeks of opening to protect neighbouring residential amenity. The Council has confirmed that it has no evidence that the acoustic scheme was approved or that the testing occurred. There is therefore no evidence that the required acoustic standard was achieved.

Please confirm:

1. whether the acoustic requirements are enforceable planning conditions or otherwise binding requirements;
2. whether failure to undertake the required testing may constitute a breach of planning control;
3. whether the Council has requested evidence from the operator that the required works and testing were completed;
4. whether Environmental Health has assessed the premises on the basis that compliance remains unverified;
5. whether a further acoustic assessment will be required before FG/65/26/S73 is determined; and
6. what enforcement action will be considered if compliance cannot be demonstrated.

It would be inappropriate to approve intensified external activity adjoining residential properties while compliance with the original acoustic safeguards remains unverified.

2. Condition 9, Section 73 and retrospective development

Condition 9 of FG/105/23/PL states:

“The permission hereby granted does not give approval for the siting or use of external tables or seating as part of the operations of this proposal.”

The current application seeks to vary Condition 2 – Plans Condition and does not appear to seek variation or removal of Condition 9.

Section 73 does not provide a general power to alter the description of development or authorise development outside the scope of the original permission. A Section 73 permission is separate, but relevant conditions that are not varied or removed must remain effective. Accordingly, unless Condition 9 is lawfully varied or removed, it continues to prohibit external tables and seating. Approval of a revised plan under Condition 2 should not implicitly override or contradict it.

The application is retrospective in substance because the seating was installed and used without permission following the Council’s investigation. Although the Council may accept or invite a retrospective application, this creates no presumption of approval. The proposal must be determined on its planning merits, without treating the unauthorised use as an established planning baseline or allowing the applicant to benefit from having acted contrary to an express amenity condition.

Please confirm:

1. whether the applicant has applied to vary or remove Condition 9;
2. if not, on what legal basis varying Condition 2 alone could authorise seating expressly excluded by Condition 9;
3. whether the application description accurately identifies all development and changes for which

permission is sought;

4. whether the submitted plans are consistent with Condition 9; and

5. how the Council would issue a legally and internally consistent decision notice if the revised plan depicts seating while Condition 9 continues to prohibit it.

Unless this conflict is resolved, the application cannot properly be approved.

Please also confirm what enforcement steps are being taken regarding the continuing daily placement and use of tables and chairs and the obstruction caused by barriers, planters and other items while the application remains undetermined.

3. Parking, public highway and enforcement

My question concerning the loss or alternative use of the three dedicated parking spaces was not answered. Referral of the application to WSCC Highways does not explain what Arun District Council did when those spaces ceased to be available for their approved planning purpose.

WSCC has confirmed that the barriers, planters and other items constitute an obstruction and that the relevant area is public highway. The continued placement of tables, chairs and associated items therefore appears to involve occupation or obstruction of land that is not private commercial land. This must be considered separately from ownership and from the Section 73 application. Correcting the ownership information does not authorise use of public highway land, grant planning permission or resolve any planning or highway breach.

Please confirm:

1. whether the three spaces formed part of the parking provision relied upon when the original permission was granted;
2. whether their occupation or obstruction by tables, chairs, planters, sleepers, barriers or other objects constituted a breach of planning control or departure from the approved arrangements;
3. whether this formed part of ENF/144/26;
4. when the Council first became aware that the spaces were unavailable for parking;
5. whether the Council accepts WSCC's confirmation that the area is public highway;
6. whether the continuing seating and obstruction have been referred to WSCC as highway authority;
7. whether any highway consent, licence or other authorisation exists for those items;
8. whether all items occupying or enclosing the spaces have been removed; and
9. how the continuing or permanent loss of the spaces has been assessed in relation to parking capacity, manoeuvring, pedestrian safety and highway safety.

Please also confirm, in relation to the application site:

- that the correct address and extent of the site have been verified;
- that all consultees, including WSCC Highways, considered the correct premises and land;
- that the red-line boundary includes all land on which the seating, tables, chairs, planters, barriers and other structures are proposed;
- that the amended ownership information has been accepted and placed on the public file; and
- whether the proposed seating area lies within the public highway.

The application and highway consultation material have repeatedly referred to 9 Ferringham Lane, which is a private residential property. The business premises are Unit 9 Ocean Parade, Ferringham Lane. This distinction is material because the proposal affects land outside the commercial unit and

WSSC has identified the relevant area as public highway.

If WSSC assessed the proposal using the wrong address or an inaccurate understanding of the application land, it should be formally reconsulted. The Council should also obtain WSSC's confirmation as to whether any consent or licence exists, or is required, for the continued placement of tables, chairs, barriers, planters and other items on the highway.

4. Case-specific investigation and continuing breaches

Your response describes a general process of checking planning history and discussing enforcement matters with the investigating officer, but does not confirm what occurred in this case. Nor does the fact that complaints were first received on 10 May 2026 explain why acoustic compliance was not checked when the premises opened or within the required six-week testing period.

The daily placement of tables and chairs and the obstruction caused by the associated items are continuing matters, not merely historic ones.

Please provide a case-specific response confirming:

- what checks were made, by whom and on what dates;
- which breaches or potential breaches were identified;
- whether the continuing seating and obstruction have been inspected;
- whether the public-highway use or obstruction has been referred to WSSC;
- what conclusions were reached; and
- how these matters will inform determination of FG/65/26/S73.

5. Continuing objection

In light of the Council's response, WSSC's confirmation and the continuing daily use of the area, I maintain and strengthen my objection.

The application should be refused because:

- external seating was expressly excluded from the original permission to protect neighbouring amenity;
- the proposal conflicts with Condition 9, which does not appear to be included in the Section 73 application;
- acoustic compliance has not been demonstrated;
- tables and chairs continue to be placed outside without planning permission;
- barriers, planters and other items continue to obstruct the area;
- the seating and associated items appear to occupy or obstruct public highway land;
- the proposal would remove or obstruct three parking spaces relied upon in the original approval;
- the highway and parking assessment is affected by uncertainty concerning the correct address, application boundary and land status; and
- the submitted material does not demonstrate that the development would avoid unacceptable effects on residential amenity or highway safety.

I ask that the application not be determined until the acoustic, parking, public-highway, site-address and Condition 9 issues have been fully investigated and reported publicly.

If officers recommend approval, the officer's report should expressly address:

- the Council's lack of evidence of acoustic compliance;
- the continuing daily placement of tables and chairs;
- WSCC's confirmation that the associated items constitute an obstruction;
- WSCC's confirmation that the area is public highway;
- the legal relationship between the revised plans and Condition 9;
- the effect on the three parking spaces; and
- whether any separate highway consent or authorisation exists.

Finally, please confirm that this correspondence has been added to complaint C26-403 and to the public documents for FG/65/26/S73.

Yours sincerely,

Denise Loydell