

Recommendation Report for Planning Permission

REF NO: FP/69/18/PL

LOCATION: The Felpham Club
43 Felpham Way
Felpham
PO22 8PT

PROPOSAL: Retention of extraction unit with steel flue, external lighting, 2 No. air condition units & external decking. This application may affect the setting of a listed building.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Application to retain extraction unit and flue to the rear of the building. These are located on a single storey flat roof projection to the rear. The flue extends approximately 2m above the eaves line of the building.
TOPOGRAPHY	n/a
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	The boundary with the adjoining dwelling is a 2m wooden panel fence.
SITE CHARACTERISTICS	Existing large detached property. Three storey in height with parking to the rear. Large property with a history of commercial use. At ground floor the use is a restaurant and kitchens. Above is living accommodation in the form of flats.
CHARACTER OF LOCALITY	Principally residential properties fronting onto a busy road.

RELEVANT SITE HISTORY

FP/136/16/PL	New extraction unit with steel flue (resubmission following FP/162/15/PL).	ApproveConditionally 14-09-16
FP/162/15/PL	New extraction unit with steel flue.	Refused 03-05-16

Planning application FP/136/16/PL granted planning permission for the erection of a flue to the rear of the building. This was similar in scale and appearance to that now proposed but its function was to serve

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a different user to that which now occupies the building.

There is no objection to the scale and appearance of the current proposals.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Felpham Parish Council

Felpham Parish Council

Objection - original flue system installed 2016, two years later this is clearly not working - leading to fumes and noise. Implications as it appears there is inadequate maintenance. FPC have grave concerns regarding the effectiveness of ventilation near adjacent buildings.

Two letters of objection

- Odour from the premises
- Noise from the extractor fan

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted. It is not considered that the applicants have satisfactorily demonstrated that noise and odour from the use of the premises has been adequately mitigated through these proposals.

CONSULTATIONS

Environmental Health

Conservation Officer

CONSULTATION RESPONSES RECEIVED:

Environmental Health

We have been dealing with complaints of odour from this premises since it opened in June 2016, have served an Abatement Notice in respect of odour in December 2017, substantiated repeated breaches of the Notice since service of the Notice, and are in the process of taking enforcement action to ensure the Statutory Nuisance is abated. It would appear that either the equipment is not being operated in accordance with the submission, or that the equipment does not function as it should.

Based on the recent witnessed breaches of the Abatement Notice, I am not satisfied that the unit does control odour from the kitchen or is working satisfactorily. I am also satisfied that there is a continued adverse impact on neighbouring properties.

With regard to the external lighting for this application, the applicant had not demonstrated that the installation complies with current British Standards and is suitable for outdoor use.

At the current time therefore, I would recommend refusal of this application.

COMMENTS ON CONSULTATION RESPONSES:

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Comments noted

POLICY CONTEXT

Designation applicable to site:

Within built up area boundary

DEVELOPMENT PLAN POLICES

Arun District Local Plan (2003):

GEN7	The Form of New Development
GEN34	Air Pollution
GEN32	Noise Pollution
GEN22	Buildings or Structures of Character

Publication Version of the Local Plan (October 2014):

D DM1 Aspects of Form and Design Quality
QE DM1 Noise Pollution
D DM4 Extensions & Alterations to Existing Buildings
QE DM2 Light Pollution
QE DM3 Air Pollution
HER DM2 Locally Listed Buildings or Structures of Character

Felpham Neighbourhood plan 2014 POLICY BT1 Support business expansion

Felpham Neighbourhood Plan 2014 POLICY ESD10 Design details

Felpham Neighbourhood Plan 2014 POLICY ESD1 Design of new development

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 taken place.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

The Neighbourhood Development Plan

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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.

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).

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 have a materially adverse effect on the residential amenities of the adjoining properties.

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

The main criteria against which the application will be assessed is the Arun District Local Plan policies GEN7, GEN22, GEN32 and GEN34 which seek to prevent development that would have an adverse impact upon visual, upon amenities (including due to noise and air pollution) and upon Buildings of Special Character. Policies D DM1, HER DM2, QE DM1, QE DM2 and QE DM3 in the Emerging Local Plan are also considerations, these seek to ensure development would not have an adverse impact upon visual, upon amenities (including due to noise and air pollution) and locally listed buildings..

The Felpham Neighbourhood Plan seeks to support proposals to upgrade and expand existing employment sites (BT1). Policy ES10 states that flues and ventilation ducts should be considered as part of the design of buildings and should be unobtrusive.

DESIGN AND VISUAL AMENITY, INCLUDING BUILDING OF SPECIAL CHARACTER

The flue is clearly visible from parts of the surrounding area and in particular from the adjoining dwelling to the west and from opposite the site. Its location towards the rear of the flat roofed side extension means that it is less visible at further distance from the west and it is screened by the main building from the east.

The flue has been painted in a colour similar to that of the main building. In accordance with previous conclusions, it is not considered to be harmful to the appearance of the Building of Special Character and to the visual amenity of nearby occupiers and therefore in accord with policy.

RESIDENTIAL AMENITY, INCLUDING NOISE & AIR POLLUTION

The applicants has failed to submit information and details which demonstrate that the extract ventilation/flue will not give rise harmful impacts on amenity as a consequence of noise or air pollution (principally odour). The Council's Environmental Health Officers have visited the site on numerous occasions and have concluded that the equipment does not satisfactorily address noise and odour issues from the property to adjacent residential dwellings. They conclude that the new flue does control the odour emitted from the kitchen satisfactorily and does not result in any odour or new nuisance.

The proposal is therefore unacceptable since it is not in accord with policy in this regards.

CONCLUSIONS

The proposal has not been satisfactorily demonstrated that that it will not gives rise to unacceptable harm to amenity as a consequence of noise and air pollution (principally odour), The proposal is not therefore in accord with policies and is unacceptable. It is therefore recommended that planning permission 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 applicant has failed to satisfactorily demonstrate that the proposed extract ventilation with flue will not give rise to unacceptable harm to amenity as a consequence of noise and odour impacts. The proposed development is therefore contrary to Arun District Local Plan policies GEN7 and GEN34 and contrary to policies D DM1 and QE DM3 in the Emerging Arun Local

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Plan 2011-2031 (Publication Version, October 2014) including Main Modifications (January 2018).

- 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 by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.