

[REDACTED]

From: Aarti O'Leary [REDACTED]
Sent: 30 November 2018 10:51
To: Juan Baeza
Cc: Fiona Fitzgerald; Anita Gardner; Richard Castro-Parker; Serena Page
Subject: RE: Planning Decision on R/209/18/PL : 130 The Street

Dear Juan

Thank you for your email confirming your agreement to the proposed approach to vary condition 3 on consent ref: R/209/18/PL, which we shall relay to the applicant.

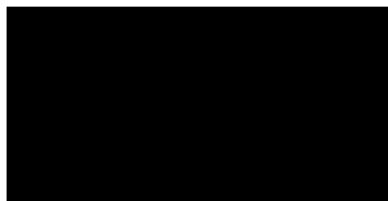
We shall liaise with Fiona in respect of condition 6 to seek agreement on appropriate delivery times for the proposed use.

Kind Regards

Aarti O'Leary
BSc (Hons), MA (Merit), MRTPI
Associate



Chartered Surveyors & Town Planners
6 New Bridge Street
London
EC4V 6AB



From: Juan Baeza [REDACTED]
Sent: 30 November 2018 10:45
To: Aarti O'Leary
Cc: Fiona Fitzgerald; Anita Gardner; Richard Castro-Parker
Subject: FW: Planning Decision on R/209/18/PL : 130 The Street

Dear Ms O'leary

I am happy for you to submit an application to vary condition number 3 as you have suggested. This will tally up with the legal advice we have received regarding the status of the decision notice. However, in respect of condition number 6 this was a condition suggested by my environmental health colleague Fiona Fitzgerald with whom you will need to liaise to agree on a way forward if you wish this condition varied.

Richard Castro-Parker is the case officer for R/212/18/PL who I will ask to update you on the progress of this application.

Regards

Juan Baeza Area Team Leader -- Planning Department, Arun District Council | Location: First Floor, Arun Civic Centre, Maltravers Road, Littlehampton, BN17 5LF

Internal: 37765 | External: +44 (0) 1903 737765 | E-mail: juan.baeza@arun.gov.uk

Visit Arun's web site at www.arun.gov.uk



Save the environment - think before you print.

From: Aarti O'Leary [REDACTED]
Sent: 29 November 2018 17:06
To: Juan Baeza
Cc: Anita Gardner; Richard Castro-Parker; Serena Page
Subject: RE: Planning Decision on R/209/18/PL : 130 The Street

Dear Juan

Following my email of 27th November 2018, below, the applicant wishes to discuss the possibility of addressing the situation via an application to vary Conditions 3 and 6 on the decision notice for the above application.

The applicant is keen to progress the development expediently and is conscious that the Council's legal team may require some time to establish the legal status of the decision notice.

In light of the length of time that has already passed since the application was submitted on 15th August 2018, it is considered that a variation of conditions application may allow for a more expedient solution.

We would also appreciate an update on the Council's consideration of application ref: R/212/18/PL, which is for a similar proposal.

We look forward to hearing from you shortly.

Kind Regards

Aarti O'Leary
BSc (Hons), MA (Merit), MRTPI
Associate



Chartered Surveyors & Town Planners
6 New Bridge Street
London
EC4V 6AB



This e-mail (and any attachments) may be confidential and privileged and exempt from disclosure under law. If you are not the intended recipient, please notify the sender immediately and delete the email. Any unauthorised disclosure, copying or dissemination is strictly prohibited.

DWD is the trading name of Dalton Warner Davis LLP, a Limited Liability Partnership. Registered in England No. OC304836. Registered Office: 6 New Bridge Street, London EC4V 6AB.

From: Aarti O'Leary
Sent: 27 November 2018 14:08
To: 'Juan Baeza'
Cc: Anita Gardner; Richard Castro-Parker; Serena Page
Subject: RE: Planning Decision on R/209/18/PL : 130 The Street
Importance: High

Dear Juan

Further to our telephone conversation this afternoon, I write to confirm the details of our discussion, noting that your legal team's advice is awaited on the status of the issued decision notice for the above application.

The pre-commencement condition (Condition 3) on the decision notice for the above application, as currently worded, would require the submission of full details of any proposed ventilation extract system prior to commencement of a Class A1 use of the site.

This would not be relevant or necessary for a Class A1 use. Therefore, we are seeking the applicant's agreement to amend the wording of the condition to read:

"A Class A3 use of the site shall not be commenced until details of any proposed ventilation extract system to discharge odours, fumes and noise from the cooking process has been submitted to and approved by the Local Planning Authority. The associated equipment shall be installed and be in full working order to the satisfaction of the Local Planning Authority".

In addition, we request that Condition 6 on the issued decision notice is amended to read:

"Deliveries by commercial vehicles shall only be made to or from the site between 07:00 and 18:00". This would allow sufficient time for morning deliveries to be made outside of peak hours and in advance of the proposed opening time of 08.00.

Once we have received confirmation that the applicant is content with the proposed amendment to the pre-commencement condition, we shall advise further.

In the interim, we would be grateful if you could confirm that the proposed amendments to Conditions 3 and 6 would be acceptable.

We look forward to hearing from you on this matter, and receiving your legal team's response in due course.

Kind Regards

Aarti O'Leary
BSc (Hons), MA (Merit), MRTPI
Associate



Chartered Surveyors & Town Planners
6 New Bridge Street
London
EC4V 6AB



This e-mail (and any attachments) may be confidential and privileged and exempt from disclosure under law. If you are not the intended recipient, please notify the sender immediately and delete the email. Any unauthorised disclosure, copying or dissemination is strictly prohibited.

DWD is the trading name of Dalton Warner Davis LLP, a Limited Liability Partnership. Registered in England No. OC304836. Registered Office: 6 New Bridge Street, London EC4V 6AB.

From: Juan Baeza [REDACTED]
Sent: 27 November 2018 13:11
To: Aarti O'Leary
Cc: Anita Gardner; Richard Castro-Parker; Serena Page
Subject: RE: Planning Decision on R/209/18/PL : 130 The Street

Dear Aarti

Following receipt of your emails we have referred them to our legal team for their advice. However, if the advice is that the decision is null and invalid and that a new application would need to be submitted I must advise you that without your agreement to the pre commencement condition we would very likely be refusing a resubmitted application.

Regards

Juan Baeza Area Team Leader – Planning Department, Arun District Council | Location: First Floor, Arun Civic Centre, Maltravers Road, Littlehampton, BN17 5LF

Internal: 37765 | External: +44 (0) 1903 737765 | E-mail: juan.baeza@arun.gov.uk

Visit Arun's web site at www.arun.gov.uk



Save the environment - think before you print.

From: Aarti O'Leary [REDACTED]
Sent: 27 November 2018 12:35
To: Juan Baeza
Cc: Anita Gardner; Richard Castro-Parker; Serena Page
Subject: FW: Planning Decision on R/209/18/PL : 130 The Street
Importance: High

Dear Juan

Further to the email below and the voicemail messages left with you and Anita earlier this morning, we write with regard to the attached decision notice for the above application, which appears to have been issued contrary to the requirements of the Town and Country Planning Act 1990.

Section 100ZA (5) of the Town and Country Planning Act 1990 stipulates that "*planning permission for the development of land may not be granted subject to a pre-commencement condition without the written agreement of the applicant to the terms of the condition*".

The Town and Country Planning (Pre-Commencement Conditions) Regulations 2018, which came into force on 1st October 2018, require local planning authorities to give applicants notice in writing that the authority intends to grant planning permission subject to the pre-commencement conditions specified in the notice.

Although the attached email from Anita Gardner (dated 15th November 2018) mentions the potential for approving the application subject to conditions suggested by the Environmental Health team in the attached email (dated 17th October 2018), it does not follow the form of the official written notice as prescribed by the Pre-Commencement Conditions Regulations 2018.

In any event, it was made clear in the attached email from DWD (dated 16th November 2018) that the applicant does not agree with the suggested pre-commencement condition, thereby meeting the requirement in the Regulations for a 'substantive response' to be submitted within 10 working days of the date of the authority's written notice.

As outlined in the email below, the decision notice that has been issued is not considered to be valid in light of the requirements of the Town and Country Planning Act 1990 and the Pre-Commencement Conditions Regulations 2018.

Accordingly, we wish to discuss the matter with you as a matter of urgency to determine how the situation can be rectified.

To assist discussions, we reiterate below our requested amendments to the conditions included on the decision notice :

- Condition 3 – As currently drafted, the condition would preclude an A1 use of the site without the prior submission of ventilation extract system details, which would not be necessary for the proposed use. Therefore, to ensure the condition meets the 'tests' for planning conditions, this should be re-worded to read *"Prior to the installation of any proposed ventilation extract system to discharge odours, fumes and noise from the cooking process, details of such a system to be submitted to and approved by the Local Planning Authority. The associated equipment shall be installed and be in full working order to the satisfaction of the Local Planning Authority"*.
- Condition 6 – It is requested that the proposed restriction on deliveries is amended to read *"Deliveries by commercial vehicles shall only be made to or from the site between 07:00 and 18:00"*. This would allow sufficient time for morning deliveries to be made outside of peak hours and in advance of the proposed opening time of 08.00.

The applicant notes the authority's amendment of other conditions on the planning permission, which reflect the requested changes set out in DWD's email of 16th November 2018.

It should be noted that the applicant is awaiting consideration of a similar application at 12 Churchill Parade, Rustington (ref: R/212/18/PL). The Environmental Health team's comments were duplicated for both schemes and, therefore, the matters raised in this email would also be relevant to the 12 Churchill Parade scheme. In light of this, the case officer for that application has been copied in to this email.

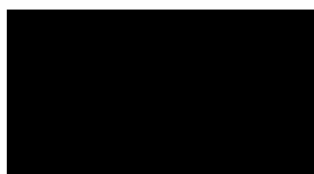
We look forward to hearing from you at your earliest convenience.

Kind Regards

Aarti O'Leary
BSc (Hons), MA (Merit), MRTPI
Associate



Chartered Surveyors & Town Planners
6 New Bridge Street
London
EC4V 6AB



This e-mail (and any attachments) may be confidential and privileged and exempt from disclosure under law. If you are not the intended recipient, please notify the sender immediately and delete the email. Any unauthorised disclosure, copying or dissemination is strictly prohibited.

DWD is the trading name of Dalton Warner Davis LLP, a Limited Liability Partnership. Registered in England No. OC304836. Registered Office: 6 New Bridge Street, London EC4V 6AB.

From: Aarti O'Leary
Sent: 26 November 2018 18:02
To: 'planning.responses@arun.gov.uk'
Cc: 'richard.castro-parker@arun.gov.uk'; Serena Page
Subject: RE: Planning Decision on R/209/18/PL : 130 The Street
Importance: High

Dear Anita

I would appreciate the opportunity to discuss the attached decision notice with you at your earliest convenience tomorrow (27th November 2018).

The pre-commencement conditions included on the decision notice have not been agreed in writing by the applicant, which is now a requirement imposed by the The Town and Country Planning (Pre-commencement Conditions) Regulations 2018, which came into force on 1st October 2018.

Therefore, the decision notice is not considered to be valid.

This situation needs to be rectified as soon as possible.

For reference, please see the requested amended conditions included in my email dated 16th November 2018, to which I requested your Environmental Health colleague's response on that date and again on 22nd November 2018.

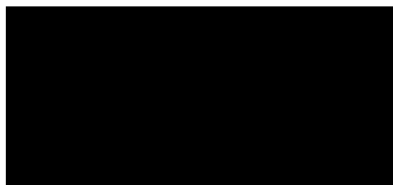
I look forward to discussing this with you tomorrow.

Kind Regards

Aarti O'Leary
BSc (Hons), MA (Merit), MRTPI
Associate



Chartered Surveyors & Town Planners
6 New Bridge Street
London
EC4V 6AB



This e-mail (and any attachments) may be confidential and privileged and exempt from disclosure under law. If you are not the intended recipient, please notify the sender immediately and delete the email. Any unauthorised disclosure, copying or dissemination is strictly prohibited.

DWD is the trading name of Dalton Warner Davis LLP, a Limited Liability Partnership. Registered in England No. OC304836. Registered Office: 6 New Bridge Street, London EC4V 6AB.

From: planning.responses@arun.gov.uk [mailto:planning.responses@arun.gov.uk]
Sent: 26 November 2018 17:03
To: Aarti O'Leary
Subject: Planning Decision on R/209/18/PL : 130 The Street

<http://www.arun.gov.uk>
DX 57406 Littlehampton

You can view Arun District Council's Privacy Policy from <https://www.arun.gov.uk/privacy-policy>

Important Notice This e-mail is intended exclusively for the addressee and may contain information that is confidential and/or privileged. If you are not the intended recipient (or authorised to receive it for the addressee), please notify the sender and delete the e-mail immediately; using, copying, or disclosing it to anyone else, is strictly prohibited and may be unlawful. Any views, opinions or options presented are solely those of the author and do not necessarily represent those of Arun District Council. The information in this e-mail may be subject to public disclosure under the Freedom of Information Act 2000, therefore we cannot guarantee that we will not provide the whole or part of this e-mail to a third party. The Council reserves the right to monitor e-mails in accordance with relevant legislation. Whilst outgoing e-mails are checked for viruses, we cannot guarantee this e-mail is virus-free or has not been intercepted or changed and we do not accept liability for any damage caused. Any reference to "e-mail" in this disclaimer includes any attachments.

This email has been scanned on behalf of Dalton Warner Davis by MessageLabs.

This email has been scanned on behalf of Dalton Warner Davis by MessageLabs.

<http://www.arun.gov.uk>
DX 57406 Littlehampton

You can view Arun District Council's Privacy Policy from <https://www.arun.gov.uk/privacy-policy>

Important Notice This e-mail is intended exclusively for the addressee and may contain information that is confidential and/or privileged. If you are not the intended recipient (or authorised to receive it for the addressee), please notify the sender and delete the e-mail immediately; using, copying, or disclosing it to anyone else, is strictly prohibited and may be unlawful. Any views, opinions or options presented are solely those of the author and do not necessarily represent those of Arun District Council. The information in this e-mail may be subject to public disclosure under the Freedom of Information Act 2000, therefore we cannot guarantee that we will not provide the whole or part of this e-mail to a third party. The Council reserves the right to monitor e-mails in accordance with relevant legislation. Whilst outgoing e-mails are checked for viruses, we cannot guarantee this e-mail is virus-free or has not been intercepted or changed and we do not accept liability for any damage caused. Any reference to "e-mail" in this disclaimer includes any attachments.

This email has been scanned on behalf of Dalton Warner Davis by MessageLabs.

This email has been scanned on behalf of Dalton Warner Davis by MessageLabs.

<http://www.arun.gov.uk>
DX 57406 Littlehampton

You can view Arun District Council's Privacy Policy from <https://www.arun.gov.uk/privacy-policy>

Important Notice This e-mail is intended exclusively for the addressee and may contain information that is confidential and/or privileged. If you are not the intended recipient (or authorised to receive it for the addressee), please notify the sender and delete the e-mail immediately; using, copying, or disclosing it to anyone else, is strictly prohibited and may be unlawful. Any views, opinions or options presented are solely those of the author and do not necessarily represent those of Arun District Council. The information in this e-mail may be subject to public disclosure under the Freedom of Information Act 2000, therefore we cannot guarantee that we will not provide the whole or part of this e-mail to a third party. The Council reserves the right to monitor e-mails in accordance with relevant legislation. Whilst outgoing e-mails are checked for viruses, we cannot guarantee this e-mail is virus-free or has not been intercepted or changed and we do not accept liability for any damage caused. Any reference to "e-mail" in this disclaimer includes any attachments.

This email has been scanned on behalf of Dalton Warner Davis by MessageLabs.

This email has been scanned on behalf of Dalton Warner Davis by MessageLabs.
