

Date: 7th December 2018
Your Ref: PP-07465944
Our Ref: 13231



6 New Bridge Street
London EC4V 6AB

Juan Baeza – Eastern Area Team Leader
Planning Department
Arun District Council
Arun Civic Centre
Maltravers Road
Littlehampton
BN17 5LF

Dear Mr Baeza

APPLICATION TO VARY CONDITIONS PURSUANT TO PLANNING PERMISSION REFERENCE R/209/18/PL AT NO. 130 THE STREET, RUSTINGTON, BN16 3DA

We hereby submit an application to vary conditions imposed on the above planning permission, which was granted on 23rd November 2018.

Background

Application reference R/209/18/PL sought planning permission for “*change of use from retail shop (A1 Shops) to retail shop (A1 Shops)/ restaurant/café (A3 Food & Drink)*”. The application was submitted on 15th August 2018 and validated on 24th September 2018.

The consultation response from the Council’s Environmental Health Officer (dated 17th October 2018) proposed imposing a pre-commencement condition requiring the submission of details of proposed ventilation/ extract system. In addition, it proposed imposing a condition restricting the servicing hours to between 08.30 and 18.00 Monday to Saturday and at no time on Sundays, Bank or other Public Holidays. A copy of this consultation response is attached at Annex 1 to this letter.

The applicant’s email, dated 16th November 2018, requested amendments to these conditions that would achieve the aim of protecting local amenity, but would also enhance the potential for securing future occupiers for the unit. A copy of this email is attached at Annex 2 to this letter.

No response was received to the requested amendments, and the application was approved on 23rd November 2018 with the unamended conditions attached, as follows:

- Condition 3 - The use hereby permitted shall not be commenced until full 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 installed and be in full working order to the satisfaction of the Local Planning Authority.
- Condition 6 - Deliveries by commercial vehicles shall only be made to or from the site between 08.30 hours and 18.00 hours Monday to Saturday and at no time on Sundays, Bank or other Public Holidays without the prior written consent of the Local Planning Authority.

Accordingly, it was agreed that the position could be addressed through submission of an application to vary the relevant conditions.

Partners

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Condition 3

As currently worded, Condition 3 would preclude a Class A1 use of the site commencing 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 set out at paragraph 55 of the National Planning Policy Framework (July 2018), which require planning conditions to be *"necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects"*, it is requested that Condition 3 is amended to read:

"The Class A3 (restaurant/ cafe) use hereby permitted shall not be commenced until full 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 has been installed, and is in full working order to the satisfaction of the Local Planning Authority".

Condition 6

As currently worded, Condition 6 would not allow sufficient time for morning deliveries to be made outside of peak hours and in advance of the approved opening time of 08.00. This is not considered to be reasonable for the successful operation of the unit. Therefore, it is requested that Condition 6 is amended to read:

"Deliveries by commercial vehicles shall only be made to or from the site between 07:00 and 18:00"

Conclusion

The applicant is seeking an amendment to two conditions attached to planning permission reference R/209/18/PL to enhance the potential for securing future occupiers for the unit. The ability to offer conditions that reflect operator requirements would help to secure the site's ongoing occupation, and thereby support the vitality and viability of the town centre.

We trust you will find the submission to be in order and look forward to receiving your confirmation that the application has been validated. In light of the length of time it took for application reference R/209/18/PL to be validated and determined, it is requested that the current application is validated expeditiously to avoid further delay to securing future occupiers for the unit.

Should you have any questions prior to determination, please do not hesitate to contact us.

Yours faithfully



Aarti O'Leary
Associate
DWD LLP





ANNEX 1 – ENVIRONMENTAL HEALTH OFFICER CONSULTATION RESPONSE TO APPLICATION REF: R/209/18/PL

From: Fiona Fitzgerald
Sent: 17 October 2018 13:41
To: Planning.Responses
Cc: Anita Gardner; Nina Sidhu
Subject: R/209/18/PL 130

Dear Anita,

Environmental Health note that this is a speculative application and that there is currently no end user in mind. In light of this, EH has **no objection** in principle, but it should be noted that there are three specific issues which would need addressing before first use as A3:

Firstly, there is no information on the kitchen and whether it would comply with current Food Hygiene Regulations. Secondly, the toilet appears to be located within and accessed from the kitchen. This is obviously not appropriate. Finally, there appears to be no sanitary provision for customers.

Please place the following conditions on any permission given:

1. The use hereby permitted shall not be commenced until full 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 installed and be in full working order to the satisfaction of the Local Planning Authority.
Reason: To ensure that unsatisfactory cooking odours outside the premises are minimised in the interests of the amenity of occupiers of nearby premises
2. The extraction equipment installed in pursuance to the condition above shall be regularly maintained to ensure its continued satisfactory operation and the cooking process shall cease to operate if at any time the extraction equipment ceases to function to the satisfaction of the Local Planning Authority.
Reason: That the use does not result in excessive cooking odours outside the premises and that the amenity of occupiers of nearby properties is protected.
3. The use hereby permitted shall be open to the public Monday - Sunday 08:30 – 22:30 Monday - Saturday and 08:30 - 22:00 Sunday or any public holiday
Reason: In the interests of amenity and the environment in accordance with policy GEN7 of the Arun District Local Plan.
4. No food or drink shall be consumed outside of the building.
Reason: In the interests of amenity and the environment in accordance with policy GEN7 of the Arun District Local Plan.
5. Deliveries by commercial vehicles shall only be made to or from the site between 08.30 hours and 18.00 hours Monday to Saturday and at no time on Sundays, Bank or other Public Holidays without the prior written consent of the Local Planning Authority.
Reason: In the interests of amenity.

Informatives:

6. The proposed floor plan currently shows only one toilet in the premises. The numbers of toilets required will depend on the number of staff and covers proposed. Please note the requirements for toilet provision in Arun District which can be found at <https://www.arun.gov.uk/download.cfm?doc=docm93jjm4n11788.pdf&ver=11779>
7. The granting of this planning permission does not in any way indemnify against statutory nuisance action being taken should substantiated complaints within the remit of the Environmental Protection Act 1990 be received. For further information please contact the Environmental Health Department on 01903 737500.

Regards

Fiona

ANNEX 2 – APPLICANT’S EMAIL DATED 16TH NOVEMBER 2018**Aarti O’Leary**

From: Aarti O’Leary
Sent: 16 November 2018 10:54
To: 'Anita Gardner'
Cc: Serena Page
Subject: RE: R/209/18/PL - 130 The Street, Rustington

Dear Anita

Thank you for forwarding the comment from your Environmental Health Officer. This application is speculative in nature, and therefore the conditionality on the planning permission will have an impact on the type of occupiers that could be attracted to the town centre to support its vitality and viability. To this end we would be grateful if you would be willing to discuss some amendments to the permission, which in our view would achieve the aim of protecting local amenity but would also enhance the potential for securing occupiers for the unit:

1. We would propose to change the condition wording 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".
2. No proposed changes.
3. We would propose to change the condition wording to read "The use hereby permitted shall be open to the public from 08:00 – 23:00 Monday to Sunday, including any public holiday".
4. We would propose to change the condition wording to read "There shall be no outdoor seating unless otherwise agreed in writing by the Local Planning Authority".
5. We would proposed to change the condition wording to read "Deliveries by commercial vehicles shall only be made to or from the site between 07:00 and 18:00".

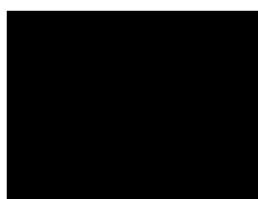
We are awaiting confirmation that the applicant is content to extend the determination deadline and in the interim we would be grateful if you could seek the Environmental Health Officer’s views on the proposed changes and advise us on their response as soon as is practicable.

Kind Regards

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



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