Expiry: 7/11

Development Control – Delegated Officer Report

Application Number: AWDM/1274/23 Recommendation: Grant

Site: Unit 2, 28 Goring Road, Worthing

Proposal: **Change of use from E (b) to Sui Generis (Wine bar with food provision).**

Date of site visit: 22/9

Neighbours checked: y

Additional neighbour notifications: n

Site and Surroundings

The application relates to a former fish and chip takeaway/restaurant on the north side of Goring Road, within the heart of the Goring Road District and Neighbourhood shopping area. The shop occupies the front unit on the ground floor, with a further unit occupied separately to the rear. 28a above, a flat over two floors, has a rear staircase with first floor platform.

The premises has no allocated parking although there is on-street parking and public car parks which serve the shopping area.

To the rear, the premises has a large single-storey flat roofed extension housing the kitchen, store and toilets associated with the shop. Beyond these in the same extension is the separate unit.

Proposal

Planning permission is sought to convert the premises into a wine bar and restaurant with primary cooking. No additional extract or ventilation equipment is proposed.

The hours of use sought in the application form are: 8am to 11pm 7 days a week including Bank Holidays. The subsequent acoustic report identifies opening hours until 11pm Wednesday to Saturday and 10:30pm Sunday to Tuesday.

Relevant Planning History:

AWDM/1777/20 - Change of use to hot food takeaway (Sui Generis) with ancillary seating. Granted

Consultations:

Highways: No objection.

Expiry: 7/11

Sussex Police:

Whilst I do not have concerns over the design and layout of the proposal, I do have concerns about the amenity of nearby residential occupiers in that they will be disturbed late into the night with the introduction of a wine bar into the area.

I note that the opening hours as indicated on the accompanying application form are to be:

Monday to Friday: Start Time: 08:00 End Time: 23:00 Saturday: Start Time: 08:00 End Time: 23:00 & Sunday/ Bank Holiday: Start Time: 08:00 End Time: 23:00.

I would therefore ask moving forward that reasonable hours of trading are made a condition of consent in order to protect the amenity of nearby residential occupiers.

The applicant and their partners are also strongly advised to consult directly with Sussex Police Licensing before making plans for licensed premises serving alcohol or conducting other licensable activities at this site.

From a crime prevention perspective – thought should be given to the siting of a fit for purpose intruder alarm system to protect the premises out of hours.

Should CCTV be a consideration the following documents will be of assistance to the applicant:

CCTV guidance for police requirements: **HO (publishing.service.gov.uk)**

CCTV at Commercial Business **https://www.gov.uk/can-i-use-cctv-at-my-commercial-premises**

CCTV | Search | Information Commissioner's Office (ico.org.uk)

In closing, from a crime prevention perspective I would ask that the observations and concerns as raised be given due consideration.

Environmental Health:

'I am happy to include a performer with an acoustic guitar. The 85dB(A) limit is to allow the combined noise of the singer and the instrument. However, 85dB(A) is not a level for background amplified music as at this level it would impact on conversation and would cause patron voices to be raised. We normally recommend a condition for any amplified background music not to exceed 75dB L(A)eq 1 min, measured 1 metre from any speaker. You need to consider the combined noise from the speakers and the patrons in the premises and it is best to have a number of small speakers dotted around the area at a lower level than one speaker at a higher level.

Any speakers will need to be mounted on anti vibration mounts to prevent any sound being transmitted through the structure into the property above, this will need to be a condition if we allow background recorded music.

If these two conditions are acceptable to the applicant then I am happy for you to proceed on this basis.'

Previous comments

'The sound insulation does need improving as per the recommendations in the acoustic report. I would condition this along with a further test to ensure the proposed works are completed satisfactorily.

I would condition the hours of use, according to the acoustic report the business will be open until 11pm Wednesday to Saturday and 10:30pm Sunday to Tuesday.

I would have a condition that there shall be no amplified music on the premises.

The Piano should be acceptable so long as the internal music level does not exceed 85dB(A) and the instrument is isolated from the floor, so as not to create any structure borne noise. The sound insulation is more effective at mid frequencies associated with vocals so unamplified singing accompanied by an unamplified piano should be ok. It is low frequency sound, associated with heavy bass music we are trying to avoid as this is more difficult to safeguard against. Therefore, I would condition that any non amplified music shall not exceed 85dBL(A)eq 1 min measured 1 metre from the entertainers. I would also condition that no more than two musicians/entertainers shall perform at any one time. We want to avoid having a small unamplified band as this could cause problems, whereas a pianist and separate vocalist should be ok.

Therefore, if we have no more than 85dB(A) in the wine bar and 50dB(A) sound reduction through the new sound improved ceiling, the upstairs noise level will meet the 35dB(A) set out in BS8233 2014 for day time noise.'

Earlier comments

I would recommend the following:

- Use of the outside area is restricted to 08:00-22:00
- Works of construction or demolition, including the use of plant and machinery, necessary for implementation of this consent shall be limited to the following times.

Monday - Friday 08:00 - 18:00 Hours
Saturday 09:00 - 13:00 Hours
Sundays and Bank Holidays no work permitted

Any temporary exception to these working hours shall be agreed in writing by the Local Planning Authority at least five days in advance of works commencing. The contractor shall notify the local residents in writing at least three days before any such works.

Reason: To safeguard the residential amenity of the area

- The use hereby permitted shall not be carried on unless and until details of a suitable system for the extraction and disposal of cooking odours (including details of the extract fans, filters, fan units and ducting together with method of noise abatement, as well as details of grease traps and extraction hoods) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall have regard to the guidance contained within Adur and Worthing Councils Kitchen Extraction and Ventilation – Information & Guidance 2019. The equipment approved under this condition shall be installed before the use hereby permitted commences and thereafter shall be maintained in accordance with the manufacturer's instructions.

- The use hereby permitted shall not commence unless and until an insulation scheme for protecting the upper floor residential unit from noise has been submitted to and approved by the local planning authority. The scheme shall achieve a minimum airborne sound insulation value of 50dB (DnTw + Ctr dB) for all floors. Following approval and implementation of the scheme, a test shall be undertaken. All works, which form part of the approved scheme, shall be completed before the use commences.

- Only unobtrusive recorded background music shall be provided in the premises within the approved hours of operation. For this purpose the music noise level shall not exceed 75dB (LAeq15min) measured anywhere on the premises

Representations:

One letter from the occupier of the flat above:

I own the residential flat which is above the ground floor commercial unit and I am concerned about noise and disturbance that the wine bar would cause. My bedroom has a window directly onto the high street.
To minimise noise disturbance can the licence hours be restricted so that they are no later than 10pm?
Also could sound transfer between the ground and first floor be considered as the sound proofing is currently very poor.

Two letters of support, one from a local business opposite one from an individual who does not live nearby.

Relevant Planning Policies

Worthing Local Plan policies (WBC 2023): SP1, SP3, DM5, DM8, DM13, DM15, DM22
National Planning Policy Framework (HCLG 2021)
National Planning Practice Guidance

Planning Assessment

The principle of change of use is acceptable where it will not harm the vitality or viability of the district shopping centre or cause harm to residential amenity.

Shopping policy

The unit is within the Goring District shopping centre where there is a strong retail presence. The unit itself is already in a non retail use (sui generis). It is not considered that a wine bar serving food would threaten the vitality and viability of the parade.

Visual Amenity

This is a local centre supporting use which will have an active frontage. It will not be harmful to visual amenity.

Residential Amenity

There is a flat above the unit. The applicant would like to install a piano and allow it to be played unamplified, or an acoustic guitar, with unamplified singing also at times.

An acoustic report submitted on 1st February recommends that a new suspended acoustic ceiling is installed and the flank walls are also upgraded to protect resident's living conditions. Environmental Health supports this approach but still require a post implementation sound test to be conducted prior to the wine bar use commencing to ensure the works have achieved the required sound reduction.

Unamplified piano or acoustic guitar should be acceptable so long as the internal music level does not exceed 85dB(A) and the piano is isolated from the floor, so as not to create any structure borne noise. One person singing unamplified accompanied by an unamplified piano or acoustic guitar should be ok. Environmental Health recommend the following conditions

- Any non amplified music shall not exceed 85dBL(A)eq 1 min measured 1 metre from the entertainers.
- No more than one singer and a piano or guitar player shall perform at any one time.
- Any amplified background music shall not exceed 75dBL(A)eq 1 min measured 1 metre from any speaker. At all times any speakers must be mounted on anti vibration mounts.
- Hours of use closing 11pm Wednesday to Saturday and 10:30pm Sunday to Tuesday.
- Use of the outside area is restricted to 08:00-22:00
- Suitable system for the extraction and disposal of cooking odours (including details of the extract fans, filters, fan units and ducting together with method of noise abatement, as well as details of grease traps and extraction hoods) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall have regard to the guidance contained within Adur and Worthing Councils Kitchen Extraction and Ventilation – Information & Guidance 2019. The equipment approved under this condition shall be installed before the use hereby permitted commences and thereafter shall be maintained in accordance with the manufacturer's instructions.

The site plan does not include any external areas and our GIS system indicates that none of the pavement includes private forecourt.

The application suggests that the existing ventilation equipment for the fish and chip shop is not to be replaced. The proposed food offer involves less cooking than the approved fish and chip restaurant. As such the existing equipment is considered sufficient. An informative is recommended advising the applicant that any change to

the equipment may need planning permission and will first need to be approved by the Food Team.

Recommendation

APPROVE subject to Conditions:-

1. Drawing Numbers
2. Standard time limit
3. Development implemented in accordance with Noise Report. The use hereby permitted shall not commence unless and until a satisfactory sound test has been submitted to and approved in writing by the Local Planning Authority demonstrating that the sound insulation measures installed between the adjoining premises meet the performance levels stipulated in the Acoustic Report submitted 1/2/24.
4. No more than two people shall perform at any time and the Piano shall at all times be isolated from the floor. The non amplified music shall not exceed 85dBL(A)eq 1 min measured 1 metre from the entertainers.
5. Any recorded amplified background music shall not exceed 75dBL(A)eq 1 min measured 1 metre from any speaker. At all times any speakers must be mounted on anti vibration mounts.
6. Hours of use 8am to 11pm Wednesday to Saturday and 8am to 10:30pm Sunday to Tuesday.
7. Hours of construction

Informatives

1. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

2. Any change to the ventilation equipment and extraction system may require planning permission and will first need to be approved by the Food Safety Team of Environmental Health.

Is recommendation contrary to letter(s) of representation? Y

Case Officer: MOK Date: 20/3/24

Authorised by: Jo Morin Date: 20.03.2024