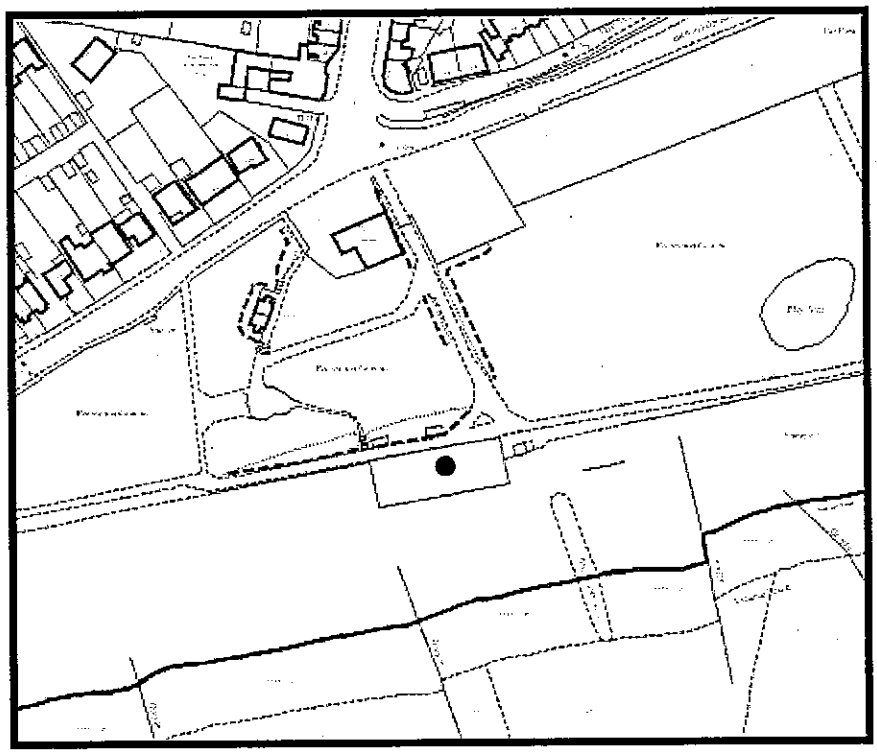
Application Number: ADC/0108/09 Recommendation - APPROVE

Site: **Former Murphy's Bar/Mermaid Leisure & Café 28A Brighton Road Lancing BN15 8BG**

Proposal: **Alteration from restaurant with storage and one-bedroom flat above to two restaurants on ground floor and first floor with ~~two~~ one-bedroom manager's flat on first floor, plus new walkway around building**



The Application

The application relates to the incomplete new building being erected under permission L/235/04 for use as a restaurant/bar with function rooms and a first-floor flat. The building is currently an unfinished shell and the external wall and roof-cladding remain to be added. It occupies the site of the former Murphy's Bar and attached amusement arcade (previously called the Mermaid cafe and amusements).

The building occupies the full extent of the plot and the proposal includes the provision of a 1m wide walkway around the building on a narrow strip of the shingle beach to be leased from the Parish Council.

As approved, the first floor comprised storage and plant room space plus a central one-bedroom flat, with an external balcony/walkway facing the beach. It is now proposed to use the first floor as a separate restaurant with bar, relocating the flat to the southwest corner of the first floor and increasing its size from one to two bedrooms, but retaining the external balcony/walkway.

On the ground floor, the eastern end would be separated off to provide the reception area, stairs, lift, toilets and bar store for the firstfloor restaurant/bar and part of the western end would provide its kitchen (with its own stairs and refuse storage area).

The remainder of the groundfloor would now provide a smaller restaurant with an open-fronted seating area facing the beach and with its kitchen, toilets and refuse store on the west side. The open-fronted seating area is reduced from previously, with part of the groundfloor rear wall no longer inset.

Consultations and Representations

West Sussex County Council: No objection, subject to provision of cycle parking.

Environment Agency: No objection but comment that it is important that access to the sea defences is not obstructed.

Adur District Council: The EHO has made comments which include that the proposed hours of opening (until 2am) appear excessively late especially as the public car park is closer to residential properties in Brighton Road; that there are no details of the extract systems for the restaurants; that the full height glazing of the firstfloor flat would give rise to privacy/security issues from the firstfloor walkway and its second bedroom is too small; and there are some discrepancies on the plans.

Lancing Parish Council: To be reported.

Third Parties: 2 letters have been received, from residents of Flats 3 & 4 at 103 Brighton Road. They support the completion of the project before another summer passes but one opposes any form of fast-food restaurant on the grounds that it would lead to litter detracting from Beach Green and will attract younger visitors to congregate which would be difficult to police. The other supports two restaurants as providing more choice.

Relevant Planning Policies and Guidance

Adopted West Sussex Structure Plan 2001-2016 (WSCC 2005) (saved policies): LOC2, ERA1, DEV1, DEV3-5
Adopted Adur District Local Plan 1993–2006 (ADC 1996) (saved policies): AG1, AR2, AR12
Revised West Sussex Parking Standards and Transport Contributions Methodology (WSCC 2003 and ADC 2004)
PPS1 'Delivering Sustainable Development (ODPM 2005)
PPS6 'Planning for Town Centres' (ODPM 2005)
PPG13 'Transport' (DLTR 2001)
PPG24 'Planning and Noise' (DOE 1994)
Circular 11/95: 'The Use of Conditions in Planning Permissions' (DoE 1995)

Planning Assessment

Policies

The site is located just outside but adjacent to the built-up area boundary as defined in the Local Plan (which runs along the seafront path). In the Local Plan, the site is included

within the Beach Green and beach area subject to policies AR2 and AR12. AR2 states that non-recreation uses of recreation areas will not be permitted and the Council will encourage their continued use for public open space purposes. AR12 states that improvements to facilities at Lancing Beach and Beach Green will normally be permitted subject to sea defence, local access and environmental considerations.

Structure Plan policy DEV1, entitled high quality development, states that development should not be permitted unless its construction, layout, scale, appearance and landscaping are of high quality taking into account the need to, amongst other things, integrate with and where possible enhance adjoining land uses and minimise conflicts between land uses and activities; have regard to context including site characteristics, townscape/streetscape views into and out of the site and building styles/materials; give high priority to pedestrians and reduce dominance of cars; create a high quality socially-inclusive adaptable environment; protect and enhance biodiversity; ensure energy efficiency; and meet the needs of service providers.

Policy DEV4 states (amongst other things) that development should not be permitted unless the travel needs it generates are met; it achieves safe and convenient access by choice of means of travel; it encourages and enables an increase in walking and cycling; and the number and impact of motorised journeys is minimised. DEV5 states that 'Development should not be permitted unless the level of parking is compatible with the need to avoid environmental or safety problems and the need is to encourage walking, cycling and the use of passenger transport where this is or can be a realistic alternative.

PPG24 states that food & drink uses, particularly fast food restaurants, public houses and night clubs, pose particular difficulties because their activities peak in the evening and late at night. It advises LPAs to consider the noise that may be made by customers in the vicinity and states that the disturbance from traffic and car parking should not be underestimated.

PPS6 states that planning policies need to manage the evening and late-night economy in appropriate centres, encouraging a range of complementary uses for a wide range of age and social groups. Councils should consider the scale and impact on the character of the centre, anti-social behaviour, crime, and the amenities of residents. They should ensure an integrated approach taking account of their Statement of Licensing policy and the promotion of licensing objectives and consider developing a local strategy. The Government's objectives for the Licensing Act 2003 are flexibility to avoid concentrations of customers leaving premises at fixed and artificially early closing times and this is reflected in this Council's Licensing policy statement which seeks slower dispersal of people through a variety of closing times.

Principle of development and inclusion of additional site area

Although just outside the defined built-up area, the principle of what amounted in effect to a new building on this site was accepted, in 2005, as a replacement of the previous derelict premises, albeit that the new building occupies the whole site, including what was formerly a paved area on the east side/south-east corner . It was seen as adding to the attraction and modernising the image of Lancing seafront and not conflicting with policies AR2 or AR12. The revisions now proposed do not change this view and it is not considered that there is any objection to the inclusion of the proposed 1m wide access path around the building.

Visual amenity

In deciding to permit the new building in 2005, it was recognised that it would have a substantial visual impact on account of its scale, modernistic design with 'wave-shaped' roof, and elevated position above Beach Green.

The changes now proposed would not change its external form and its overall appearance would not be modified to any great extent. On the north elevation facing Beach Green, the groundfloor glazing would be increased in extent, providing full-height windows and doors to the groundfloor restaurant. This would help break up the otherwise relatively blank length of wall, lightening the solid appearance, and thereby improving this elevation as seen from the north. On the first floor, the glazing in the side elevations would also be increased, again reducing the apparent 'solidity' of the structure which, it is considered, is acceptable.

Details of extract ventilation have not been submitted and need to be the subject of a condition as on the previous permission.

Access and parking

It was recognised when permission was granted in 2005 that the premises have no parking of their own and are reliant on the nearby public car park for customer and other parking. This is 80m away in a direct line across Beach Green (or 130m along the roadway/footway and pavement). As for deliveries, these would utilise the existing gated roadway (owned by the Parish Council) off the mini-roundabout on the A259.

The proposals contained in the present application increase the gross internal floor area of the building by 30sqm to 1,210sqm, but this is only as a result of enclosing some of the beachside external decked seating area (beneath the overhanging first floor) within the existing building 'envelope'.

Although this increase in floorspace is not significant, the subdivision of the building into 2 restaurants, using space on the first floor (and within the curving roof) only previously shown for storage/plant, may well result in a more intensive use of the building. The total 'public' areas would be increased from approximately 530sqm to 650sqm. Under the adopted maximum parking standards, the maximum requirement would increase by 24 car spaces from 106 to 130 car parking spaces. Nevertheless, the location is 'sustainable' in accessibility terms and also lies very close to the large public car park. Moreover, use of ancillary storage as part of the restaurant and/or subdivision of the premises would fall outside planning control once the building is completed (because internal alterations do not constitute 'development' as defined by the Act). Only the external changes would require permission. As accepted by WSCC, it is, therefore, concluded that refusal on grounds of increased intensity of use leading to excessive traffic generation would not be justifiable.

There was no requirement for cycle parking on the original application.

Residential amenity

The main concern is that the applicants now indicate that the premises would be open until as late as 2am. However, they have since amended this to 12 midnight Mon-Thurs and 1am Fri-Sun (plus Bank Holidays).

Condition 3 of the previous permission L/235/04 restricts hours of opening to 8.30am-11pm, with all activity ceasing by 11.30pm. This was in accordance with ADC's supplementary planning guidance "Late Night Opening of Restaurants and Take-aways" which was adopted as long ago as 1985. However, this guidance now has very little weight because of more recent Government policy in PPS6 (2005). Taking account of the new licensing regime objectives, PPS6 encourages more flexibility and generally less restriction of opening times to increase choice and avoid concentrations of people leaving licensed premises at particular times.

There is a distinction to be drawn between restaurants where meals are consumed on the premises and hot food take-aways. When the previous planning permission was granted in February 2005, they both fell within the same Use Class A3 'Food & Drink' and no condition was imposed on the permission to prevent take-away sales of hot food. However, in April 2005 the Use Classes Order was amended so that that they now fall into different Use Classes A3 'Restaurants & Cafes', A4 'Drinking Establishments' and A5 'Hot Food Take-aways'.
Past experience has shown that restaurants selling take-away hot food after 11pm often result in noise and disturbance from persons, including intoxicated youths, attracted to and congregating at such premises and behaving rowdily. Apart from the behaviour of customers, noise could also arise from their vehicles entering/leaving the car park, including car doors slamming. Residents have a reasonable expectation to be able to sleep after 11pm free from disturbance. However, restaurants providing solely for consumption of food on the premises have a much lesser propensity to cause disturbance.

In the instance of this case, the building itself is well separated from residential premises, being 100m from the closest properties which are the Home at No's 85 & 87 Brighton Road which is considered adequate to avoid unacceptable disturbance.

As raised by the EHO, the public car park is much closer, being 20m-30m from No's 91-105 Brighton Road and East Lodge flats. However, it is separated from the residential area by the main road and, on balance, the applicant's amended times of 12 midnight Mon-Thurs and 1am Fri and Saturday are considered acceptable for the restaurant (excluding any takeaway use). It is not considered, however, that 1am is acceptable on Sundays and Public Holidays and it is considered these days should be limited to 12 midnight.

As to any hot food takeaway sales, it is considered these should be restricted to no later than 11pm every day for the reasons given above.

Recommendation

Subject to receipt of satisfactory amended plans correcting some minor discrepancies, APPROVE for reason that:-

The proposed development would not detract from the local environment and can take place without resulting in unacceptable detriment to the amenities of residential properties and without detraction from highway safety. It would consequently not conflict with the policies of the Adur District Local Plan (AG1, AR2, AR12) and the West Sussex Structure Plan (DEV1, DEV4-5).

Subject to:-

1. C1Ci (Standard time limit)
2. C12Eii (External walls to match) (amended)
3. C14A3 (Permission relates to application as amended by corrected plans)
4. C14L (Business hours and external illumination limited to 8.30am-12 midnight Sun-Thurs and 1am Fri and Sat, and there shall be no take-away sales or home delivery of hot food except between the hours of 8.30am-11pm) (amended)
5. C14O (Filtered odour extract system to be provided in accordance with details to be submitted and approved)
6. Details of walkway and shutter to be submitted & approved.

.....

Local Government Act 1972
Background Papers:

As referred to in individual application reports

Contact Officers:

Keith Morgan
Planning Services Manager
Adur Civic Centre
01273-263239
Keith.morgan@adur.gov.uk

Peter Barnett
Principal Planning Officer (Development Control)
Adur Civic Centre
01273-263233
Peter.barnett@adur.gov.uk

Hannah Barker
Planning Officer (Development Control)
Adur Civic Centre
01273-263228
Hannah.barker@adur.gov.uk

Carlos Hone
Planning Officer (Development Control)
Adur Civic Centre
01273-263216
Carlos.hone@adur.gov.uk