

[] Remove or Vary a condition

S/090/00085/22

APPLICANT: Butlins Skyline Limited

VALID: 18/01/2022

AGENT: Walsingham Planning Limited

PROPOSAL: Section 73 application in relation to condition no. 4 (opening hours) and condition no. 5 (amplified music) previously imposed on planning permission ref. no. S/090/02087/21 for extension and alterations to existing performance venue.

LOCATION: BUTLINS RESORT, ROMAN BANK, INGOLDMELLS, SKEGNESS, PE25 1NJ

FOR DELEGATED APPLICATIONS USE THE FOLLOWING:-

1.0 THE SITE AND SURROUNDINGS

- 1.1 The application site is located within the Butlins complex on the eastern side of Roman Bank. The site itself was formerly a large graveled area at the rear of the Skyline Pavilion entertainment centre and it is now the site of a large new show bar and entertainment centre approved under Ipa Ref S/90/2215/20. To the south is a large indoor sports centre and to the north a restaurant and holiday accommodation block.
- Further to the south and north are more facilities and accommodation on the Butlins complex while to the east is a grassed area, parking spaces and then the promenade and beach.

2.0 S.73 APPLICATIONS

- 2.1 Section s.73 applications are to vary or remove a condition associated with a planning permission. Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unchanged. NPPG paragraph 031 says "in deciding an application under section 73, the Local Planning Authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application" and "It should be noted that the original planning permission will continue to exist whatever the outcome of the application under section 73". A decision notice describing the new permission should be issued, setting out all of the necessary conditions related to it.
- 2.2 Decision notices for the grant of planning permission under s.73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. In granting permission under s.73 the local planning authority may also impose new conditions – provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have

been imposed on the earlier planning permission. If the decision maker considers that the original conditions should remain unchanged, the s.73 application should be refused.

- 3.3 The section makes it clear that in considering such an application a local planning authority may only consider the "question of the conditions", the inference and supported in case law is that the description may not be changed or altered. However, in terms of decision making, a s.73 application should be treated just like any other application, and due regard is to be paid to the development plan and other material considerations.

3.0 PROPOSED DEVELOPMENT

- 3.1 The application is to vary 2 conditions imposed on application number S/90/2087/21 as follows;

Condition 4 -The building the subject of this application shall not be open for customers outside the following times:

08:00 hrs on one day to 02:00 hrs on the following day, and between 23:00hrs and 0200hrs the building shall be operated as a silent disco only as set out in Technical Note 001 accompanying application number S/90/1996/21.

Reason: In the interests of the amenity of local residents. This condition is imposed in accordance with paragraph 185 of the National Planning Policy Framework.

Condition 5- Notwithstanding condition 4 there must be no amplified music played on the premises between 2300hrs and 0200hrs

Reason: In the interests of the amenity of local residents. This condition is imposed in accordance with paragraph 185 of the National Planning Policy Framework.

The applicants suggest a variation to 4 and 5 as follows;

4. The building the subject of this application shall not be open for customers outside the following times: 08:00 hrs on one day to 02:00 hrs on the following day, and between 23:00hrs and 0200hrs the building shall be operated as a silent disco only as set out in Technical Note 001 accompanying application number S/90/1996/21. On New Year's Eve/New Year's Day each year only, the building the subject of this application shall not be open for customers outside the following times: 08:00 hrs (New Year's Eve) to 01:00 hrs (New Year's Day), albeit the playing of amplified music will be permissible up until 0030.

5. Notwithstanding condition 4 there must be no amplified music played on the premises between 2300hrs and 0200hrs, on any day other than New Year's Eve/New Year's Day.

These variations apply solely to New Years Eve/New Years day as part of the resorts New Year celebrations. In effect for one night only amplified music would be allowed to 0.30am on New Years day and all customers would have to leave the building by 0100hrs

4.0 CONSULTATION

Consultees

PARISH COUNCIL -N/R

LCC HIGHWAYS AND LEAD LOCAL FLOOD AUTHORITY - No obs

ENVIRONMENTAL SERVICES (Environmental Protection) - No Objection

ENVIRONMENTAL SERVICES (Drainage) - n/r

ENVIRONMENTAL SERVICES (Contamination) -n/r

Publicity – SN/NN

Neighbours

No comments received

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5.0 RELEVANT PLANNING HISTORY

5.1 In January 2021 under Ipa Ref S/90/2215/20 Planning Permission was granted for the erection of a building to accommodate a performance stage and seating.

5.2 In November 2021 under Ipa Ref S/90/ 2087/21 Planning Permission was granted for extension and alterations to the existing performance venue and retention of enhanced venue on permanent basis.

Work has already started on this approved development.

5.3 In November 2021 under Ipa Ref S/90/1996/21 a Section 73 application in relation to condition no. 4 (opening hours) as imposed on planning permission reference no. S/090/02215/20 was approved to extend the opening hours until 2.00am

6.0 PLANNING CONSIDERATIONS

Planning Policy:

East Lindsey Local Plan:

SP10

SP17

SP21

National Planning Policy Framework

Officer Assessment:

- 6.1 In terms of the opening hours, like the previous Section 73 application (1996/21) the intention is to use the building until 2:00am to meet customer demand and extend the customer offer of events at the building throughout the year. However on New Years Eve/New Years day only, amplified music would be allowed until half past midnight, and the whole building would be cleared at 1.00am.

As before to mitigate the noise emissions from the premises on all other days it is intended to use a concept known as "silent disco" between the hours of 11:00pm to 2:00am. This means that the guests in the premises will get a set of headphones and music is then relayed via a local wireless network.

The site of this building is located on the eastern side of the existing complex behind existing buildings. Therefore it is not near dwellings, but despite this and to take a cautious approach in terms of preventing harmful noise emissions from the premises it was considered this concept allowed events to take place up to 2:00am without any adverse impacts on residents in the wider area.

Turning to the current proposal which seeks to not use the silent disco concept on New Years Eve, Environmental Services have advised that they have no objections to this particular proposal and therefore approval is recommended subject to the revised conditions to take account of the revision to the operations on New Years Eve/New Years day

7.0 RECOMMENDATION APPROVE

RECOMMENDATION:

subject to the following conditions:

1. The development hereby permitted shall only be undertaken in accordance with the following approved plans;

Plan No. IPL-21-363/12-100 06-LPA Received by the LPA on 18/01/2021.

Plan No. IPL-21-363/12-099 04-LPA Received by the LPA on 05/10/2021 and accompanied application number S/90/2087/21.

Plan No. IPL-21-363/12-101 04-LPA Received by the LPA on 05/10/2021 and accompanied application number S/90/2087/21.

Plan No. IPL-21-363/12-104 05-LPA Received by the LPA on 05/10/2021 and accompanied application number S/90/2087/21.

Plan No. IPL-21-363/12-103 02-LPA Received by the LPA on 05/10/2021 and accompanied application number S/90/2087/21.

Plan No. IPL-21-363/12-107 01-LPA Received by the LPA on 05/10/2021 and accompanied application number S/90/2087/21.

Reason: For the avoidance of doubt and the interests of proper planning.

2. The development hereby permitted shall be carried out in accordance with the measures set out in the Flood Risk Assessment dated 31st August 2021 which accompanied application number S/90/2087/21, including finished floor levels shall be no lower than the existing temporary building; and Flood resilience and resistance measures to be incorporated into the proposed development as stated. Furthermore the development shall be carried out in accordance with the measures set out in the Evacuation Plan dated November 2020 which accompanied application number S/90/2215/20.

The mitigation measures shall be fully implemented at all times the building is being used.

Reason: To reduce the risk of flooding to the proposed development and future users in accordance with paragraph 164 of the National Planning Policy Framework.

3. The building the subject of this application shall not be open for customers outside the following times: 08:00 hrs on one day to 02:00 hrs on the following day, and between 23:00hrs and 0200hrs the building shall be operated as a silent disco only as set out in Technical Note 001 accompanying application number S/90/1996/21.

On New Year's Eve/New Year's Day each year only, the building the subject of this application shall not be open for customers outside the following times: 08:00 hrs (New Year's Eve) to 01:00 hrs (New Year's Day), albeit the playing of amplified music will be permissible up until 0030

Reason: In the interests of the amenity of local residents. This condition is imposed in accordance with paragraph 185 of the National Planning Policy Framework.

4. Notwithstanding condition 3 there must be no amplified music played on the premises between 2300hrs and 0200hrs, on any day other than New Year's Eve/New Year's Day.

Reason: In the interests of the amenity of local residents. This condition is imposed in accordance with paragraph 185 of the National Planning Policy Framework.

- 5.

This planning application was acceptable, as submitted, and complies with the Development Plan Policies, and the National Planning Policy Framework. As such no negotiations were necessary in this case.
