

Recommendation Report for Planning Permission

REF NO: AB/141/21/PL

LOCATION: The Cemetery  
Ford Road  
Arundel  
BN18 9EA

PROPOSAL: Variation of condition 3 imposed under AB/53/14/PL relating to hours of operation.

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| <b>SITE AND SURROUNDINGS</b> |
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| DESCRIPTION OF APPLICATION | <p>This proposal seeks to amend condition 3 of AB/53/14/PL</p> <p>Condition 3 states:</p> <p>The premises shall not be used except between the hours of 8am and 5pm Monday to Friday and 8am and 4pm Saturdays and 10am and 4pm Sundays and bank holidays inclusive.</p> <p>Reason: To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties in accordance with Arun District Local Plan policy GEN7.</p> <p>It is proposed to vary the wording to allow the occupier to access the building at any time, with a condition that no noisy external activity be undertaken before 8am and after 6pm each day. The applicant would accept an additional condition to restrict members of the public entering the premises to certain times of the day, as per the current overall restrictions.</p> <p>The current restriction in times that the building can be occupied is restrictive for many artists, who by the nature of their work (or having a main job during normal office hours) would need to use the building at any time.</p> |
| BOUNDARY TREATMENT         | Hedging to rear otherwise open.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| SITE CHARACTERISTICS       | Detached single storey building located in churchyard on northern boundary. Brick elevations and plain tile roof. Accessed via a footpath through the churchyard.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| CHARACTER OF LOCALITY      | Predominantly residential. Dwelling on entrance to churchyard and flats to rear.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

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| <b>RELEVANT SITE HISTORY</b> |
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|             |                                                        |                      |
|-------------|--------------------------------------------------------|----------------------|
| AB/53/14/PL | Change of use from mortuary/storage to office, artists | ApproveConditionally |
|-------------|--------------------------------------------------------|----------------------|

studio and/or artisan use such as saddlemaker, picture  
hanger, furniture restorer

11-07-14

## REPRESENTATIONS

Arundel Town Council - No Comment.

## COMMENTS ON REPRESENTATIONS RECEIVED:

None.

## CONSULTATIONS

## CONSULTATION RESPONSES RECEIVED:

Environmental Health - No Objection.

Request conditions imposed in respect of opening hours for customers, external activities and deliveries.

## COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

## POLICY CONTEXT

Designation applicable to site:

Class C road

Within Built-up area boundary

## DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

DDM1 D DM1 Aspects of form and design quality

QESP1 QE SP1 Quality of the Environment

[Arundel Neighbourhood Plan 2014 POLICY 15:](#) Business Uses

## PLANNING POLICY GUIDANCE:

NPPF National Planning Policy Framework

## POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

## DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to comply with relevant Development Plan policies in that there would be no materially adverse effect on residential amenity or the character of the area.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that

- (2) in dealing with an application for planning permission the authority shall have regard to -
- (a) the provisions of the development plan, so far as material to the application,
  - (aza) a post examination draft neighbourhood development plan, so far as material to the application,
  - (b) any local finance considerations, so far as material to the application, and
  - (c) any other material considerations.

The relevant Arundel Neighbourhood Plan policy has been considered.

#### **OTHER MATERIAL CONSIDERATIONS**

It is considered that there are no other material considerations to be weighed in the balance with the Development Plan.

#### **CONCLUSIONS**

##### **INTRODUCTION**

This proposal seeks only to vary the hours of use of the premises imposed on AB/53/14/PL. All other matters remain as approved and do not form part of consideration of this application.

##### **PRINCIPLE**

The site is in the built-up area where the principle of the intensification of the use as proposed by the variation of condition development is acceptable, subject to accordance with relevant planning policies. In this instance, the main criteria against which the application will be assessed are contained within Arun District Local Plan policy D DM1 which seeks to prevent development that would have an unacceptable adverse impact upon visual and residential amenities and local plan policy T SP1 which relate to parking and highway safety.

The proposal is in accordance with Policy 15 of Arundel Neighbourhood Plan which supports proposals for the development of new B1 business uses.

##### **IMPACT ON VISUAL AMENITY AND THE CHARACTER OF THE AREA**

The variation of condition 3 will not have any greater impact on the character of the area to that already approved under AB/53/14/PL and would not materially increase the use of the development. This proposal does not increase the built form on the site.

The development will not involve external alterations to the building and is acceptable in design terms.

##### **IMPACT ON HIGHWAY SAFETY**

No objection was previously raised to the use of the site in terms of highway safety. The proposal does not materially increase the use of the site and therefore given the limited size of the building and scale of the use it is considered compliant with policy T SP1 of the Arun Local Plan.

## **RESIDENTIAL AMENITY**

The building has a limited footprint and therefore the scale of any use is limited. The building is located on the boundary of the churchyard adjacent to residential properties. Since the restriction of the proposed use for B1 purposes as approved under AB/53/14/PL will remain, the proposed variation of condition 3 would not have any greater impact on residential amenity and therefore complies with policy D DM1 of the Arun Local Plan. This is especially so given the additional conditions suggested restricting delivery of goods and customers to the site and outdoor noise levels.

## **SUMMARY**

It is therefore considered that the proposal complies with the NPPF and the Local Plan policies and should be approved subject to the following conditions

### **HUMAN RIGHTS ACT**

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

### **DUTY UNDER THE EQUALITIES ACT 2010**

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

### **RECOMMENDATION**

#### **APPROVE CONDITIONALLY**

- 1 The premises shall only open to customers within the following times 08.00 - 17.00 Monday to Saturday and 10.00 - 16.00 on Sundays or Public Holidays.

Reason: To protect the amenity of local residents in accordance with Policy QE DM1 of the Arun Local Plan.

- 2 No activities with the potential to create a noise disturbance to the nearest sensitive receptor shall take place within the curtilage of the site between 18.00 - 08.00 Monday to Saturday, and at no time at all on Sundays or Public Holidays.

Reason: In the interests of maintaining adequate amenity to local residents and visitors to the area in accordance with Policy QE DM1 of the Arun Local Plan.

- 3 No delivery activities shall take place, other than between 08:00 to 18:00 hours (Monday to Friday) and 08:00 to 13:00 hours (Saturday). No HGV deliveries on Sunday or Bank Holidays.

Reason: In the interests of maintaining adequate amenity to local residents and visitors to the area in accordance with Policy QE DM1 of the Arun Local Plan.

- 4 INFORMATIVE: For the avoidance of doubt only condition 3 attached to AB/53/14/PL has been amended by this permission. All other conditions attached to AB/53/14/PL are required to be adhered to.

- 5 INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.