Recommendation Report for Planning Permission

REF NO: **AB/159/15/PL**

LOCATION: 24 High Street
Arundel

PROPOSAL: Change of use from retail shop (A1 Shops) with flat over to veterinary surgery (D1 Non-Residential Institutions) with flat over. This application affects the character & appearance of the Arundel Conservation Area.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above
SITE AREA	147 sq metres
RESIDENTIAL DEVELOPMENT DENSITY (NET)	N/A
TOPOGRAPHY	Predominantly flat.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	The premises is located on the back edge of the footpath.
SITE CHARACTERISTICS	The property is a 3 storey mid terrace with brick elevations and a sloping roof. The ground floor is in retail use
CHARACTER OF LOCALITY	The property is located in the town centre in a predominantly retail area adjacent to the Norfolk Hotel

RELEVANT SITE HISTORY

AB/160/15/L	Application for Listed Building Consent for internal alterations to facilitate use of premises as a veterinary surgery.	ApproveConditionally 14-01-2016

REPRESENTATIONS

Representations received:

Arundel Town Council

Objection. Contrary to Neighbourhood Plan policy 14-4.67

Two other objections, one from a neighbour and the other from the Arundel Chamber of Commerce:- Change of use would threaten neighbour's residential home. Change of layout within the property would increase frequency of those accessing property on neighbours land

and affect privacy and security.
-The veterinary is too close to dwelling and hotel
-Noise nuisance, smells and ventilation within and outside opening hours are unacceptable
-Concerned about animals being kept on the premises in the recovery area located directly opposite our family kitchen, dining room and living room.
-Associated health risks arising from disposal of clinical and animal waste not even mentioned.
When No.26 purchased their home, they were of the impression that the ground floor units would be retail only to preserve the very nature of Arundel High Street. There are already adequate provisions of veterinary clinics in the local area and no requirement for a change of usage on the High Street.
-object to change of use from an A1 Retail Shop to a D1 Non-Residential Institutions. Arundel High Street requires retail shops to maintain it's character and charm.
-The loss of peace and privacy to our home with a commercial side entrance.
-The loss of our residential side entrance with two children under 3 years of age with visitors of the proposed practice having access to our private side entrance (which should be locked when not in use). Increase in insurance premium.
-Further disturbances of frequent visitors and sick animals being walked through the main entrance of our residential home including deliveries.
-The noise disturbances of the animals 'on-site' in particular the 'recovery area' right next to our front door is ill thought through. No adequate consideration in the plans for noise insulation internally. We would hope at a minimum internal sound proofing and a redesign so they don't occupy such close proximity to our home. Having effectively kennels for sick animals (pre/post surgery), including in the plans an overnight facility for dogs next to our home, daily and at weekends seems unacceptable.
-Next to the recovery area (the garden) it is proposed that unsupervised animals will effectively be allowed to have a small amount of exercise and go to the toilet. This seems unacceptable in a residential area.
-We are very concerned of their lack of foresight regarding waste storage in a residential area. We would not allow such materials to be stored on our land. Where will these be stored and for how long?
-It is proposed the residential dwelling will be occupied by different tenants (plans propose a two bedroom instead of the existing one bedroom). This raises concerns with security for our home and our children. Internal gates being left opened or unlocked. The passageway front door to the street not being locked. General public having access to the passageway directly outside our main entrance. Our children not being able to roam freely in their own home due to these risks
-concerned about parking and loading of sick animals. Where will people be parking or dropping of sick animals? Directly outside the property is a bus stop and cars parked here already cause a nuisance with buses unable to stop properly.
-The proposed design and change of use affects both the character of our residential property and that of No.24. It does not increase the desirability of the property or enhance the character of the conservation area. The design technically splits this property into two whilst making significant internal alterations. Loss of desirability of our home, a commercial entrance on our land, and no insulation for proposed kennels and recovery areas.
-in keeping with the character of the high street, no.24 should remain a retail shop serve local residences to attract tourists to the town, preserve the historic High street shops, and employment.
Chamber of Commerce consider that the Town cannot afford to lose yet more retail premises on the High Street. Arundel is struggling to maintain its retail footfall and to lose yet another retail outlet would compound what is already a fragile balance of retail trade in the town.

Comments on Representations received:

Agreed. The proposal contains very little information to demonstrate that it would not have an adverse impact on either residential amenity or the retail use of the town centre

CONSULTATIONS

Conservation Officer
Environmental Health

Consultations responses received:

Environmental Health - Given the sensitive location of this proposal then our advice is that this application should be refused. This is in anticipation of nuisance likely to be generated by noisy animals and any associated process such as air conditioning unit that may be required. The application also provides scant detail.

Conservation Area Advisory Committee - No Objection

Comments on Consultation responses:

- comments noted and agreed

POLICY CONTEXT

Designation applicable to site:
Arundel Shopping Centre
Grade 2 Listed Building
Conservation Area

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:	GEN7	The Form of New Development
	GEN32	Noise Pollution
	AREA20	Arundel Shopping Frontage
Publication Version of the Local Plan (October 2014):		RET SP1 Hierarchy of Centres
		RET DM1 Retail Development
		QE DM1 Noise Pollution
		QE SP1 Quality of the Environment
Arundel Neighbourhood Plan 2014 POLICY 14:		Arundel Town Centre

PLANNING POLICY GUIDANCE

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

Arun District Council's Development Plans:

Paragraph 215 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight. The weight afforded to the policies with Local Plan policies can be assessed according to their level of consistency of the various policies with the National Planning Policy Framework.

Paragraph 216 of the NPPF confirms that weight can be given to policies in emerging plans from the day of publication. The Council resolved that the policies and maps in the Publication Version of the Local Plan be used in the determination of this planning application. Following 'publication' of the Local Plan a formal public consultation, examination and adoption process takes place.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The statement of representations procedure and statement of fact produced by the Council under regulation 19 explains that the consultation will take place on 30th October 2014 for six weeks.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation(Reg.14).

Made Plans in Arun District Council's Local Planning Authority Area are: Angmering; Arundel; Barnham & Eastergate; Bersted; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; and Yapton. Policy 14 of Arundel Neighbourhood Plan is considered relevant.

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 not considered to comply with relevant Development Plan policies in that it would have a materially adverse effect on the residential amenities of the adjoining properties and upon the established character of the surrounding area.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

The premises are currently in retail use and are located in an area that is designated as a Primary Shopping Frontage in the Emerging Local Plan (policy RET DM1) and within Policy 14 policy area of the Arundel Neighbourhood Plan. These policies replace the existing AREA 20 policy of the Arun District Local Plan which relates specifically to Arundel, but only to commercial uses. They recognise the importance of retail uses in the town centre and seek to retain retail uses to ensure the continued vitality of the retail area.

The agent has not provided any information to demonstrate how the conversion of the premises and loss of retail use impacts on the percentage of A1 uses in the area. Policy 14 of the Neighbourhood Plan requires this to be retained at a level of 80% A1 uses along the Primary

Retail frontage and no information has been submitted to demonstrate how the change of use proposed impacts on this figure. The proposal is therefore considered contrary to the Neighbourhood Plan and Emerging retail policies in the Local Plan

The premises adjoins other retail and residential properties. There is insufficient information submitted with the application to demonstrate that there would be no unacceptable adverse impact on adjoining neighbours resulting from noise and disturbance. The application form has not been completed with basic information with regard to hours of operation, number of employees, waste storage and collection. It is not clear if any measures are proposed to reduce noise from animals how often/when this is likely to occur or whether extraction equipment would be required. It is therefore concluded that the proposal is likely to have a materially adverse impact on the residential amenities of adjoining properties.

The application is therefore recommended for refusal for the following reasons

HUMAN RIGHTS ACT

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 (the right to respect for private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal 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 neutral 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).

RECOMMENDATION

REFUSE

1 The proposal would have an unacceptable impact on the amenities and quiet enjoyment of nearby residential properties in conflict with policies GEN7 and GEN32 of the Arun District Local Plan, DDM1, QEDM1, and QESP1 of the Emerging Local Plan and the NPPF.

2 The proposal is unacceptable to the Local Planning Authority in that it has not been satisfactorily demonstrated that the proposed loss of the retail use of the premises would not adversely impact on the policy target retention/provision of 80% of the units in the Primary Retail Frontage being A1 uses in the Primary Shopping Frontage area of Arundel as identified in policy 14 'Arundel Town Centre' of Arundel Neighbourhood Plan.

The proposal therefore conflicts with policy 14 of the Arundel Neighbourhood Plan and policy RETDM1 of the Emerging Local Plan for major retail development outside established shopping centres.

3 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 identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reasons for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.