

Recommendation Report for Planning Permission

REF NO: BE/100/18/PL

LOCATION: Unit 8
Clock Park
Shripney Road
Bersted

PROPOSAL: Change of use of ground & first floor office/light industrial unit (B1 - Office & Light Industrial) to gym (D2 - Assembly & Leisure)

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above. The outside of the building is to remain as existing, except for the addition of a HVAC condenser to the exterior.
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SITE AREA	Approx. 824 m2
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RESIDENTIAL DEVELOPMENT	N/A
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DENSITY (NET)	
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SITE CHARACTERISTICS	2 storey office/light industrial space. Unit 8 is constructed out of red brick with a number of uPVC windows and doors. External staircases that serve the building are also present as are blue double doors into the side elevation.
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CHARACTER OF LOCALITY	Industrial units with access off main Shripney Road. To the rear of the application unit, number 8, are units 9, 10 and 11 with units 1 and 3 the next closest adjacent units. Businesses such as Easylay Beds, car maintenance - Tyre Express and Engineering Plastics amongst others feature in the surrounding units.
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None

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Bersted Parish Council

Bersted Parish Council: No objection.

Letters of representation have been received, with 2 letters of objection which are summarised below:

There are already enough gyms in the area - 6.

You have VK Gym, Legends Health & Fitness, Dream Fitness, Arun Leisure Centre, and The Arena Sports Centre - all under 1 mile apart.

Area struggling for office space.

Why loss of office space for something that is not needed.

Simply trying to come and shutdown other businesses (gyms) in area which will lead to job losses.

Proposed fitness centre does not bring anything unique to the area.

Taking away a site currently classified for business/office use & replacing it with leisure I fear would take away opportunity where Bognor needs it the most - as supported by Economic Development with their comments.

Change of use would not benefit Bognor Regis and should be refused.

COMMENTS ON REPRESENTATIONS RECEIVED:

It is noted that there are a number of gyms within the area, however it should be noted that planning should not prejudice the application on the basis that there are already other gym business within the area and Officers do not consider that this is a valid reason for refusal. The assesment of this application will look at the impact of the building with regard to design, residential amenity, loss of B1 office/light industrial space, etc.

Officer note the comments received from The Council's Economic Development Manager and note that they initially object to the loss of what is considered a high-quality B1 (Office/Light industrial) unit. Following assesment of the submitted marketing details and details regarding the number of people who have shown interest in the unit over the marketing period (8 people over 3 years)

Having regard to the comments received from the Economic Development Manager it is noted that they originally objected with regard to the loss of a high quality B1 (office/light industrial) unit. However, following an assesment of the marketing particulars, as aforementioned, they no longer object. They are satisfied that sufficient efforts have been made to let the unit and will no longer object to the change of use.

Officers have considered the loss of a B1 unit, the comments from economic development, length of time the unit has been market for along with the number of enquiries and would do not consider the loss of a B1 unit to be detrimental as to warrant refusal.

With regard to the potential job losses as a result of competition, Officers note that competition between business is not a material planning consideration. Therefore, just because competition could lead to the loss of jobs following a gym shutting down is not considered a reason for refusal. Additionally, there is no evidence that any gym would shutdown as a result.

CONSULTATIONS

Environmental Health

Economic Regeneration

CONSULTATION RESPONSES RECEIVED:

Environmental Health: No objection subject to the imposition of a noise condition.

Economic Development: Do not object to this application:

"Based on the information provided we are satisfied that sufficient efforts have been made to let the unit

and will no longer object to the change of use."

Previous Comments: Object to this application:

"There is a shortage of good quality industrial properties in Bognor Regis and we are seeking to retain whatever is currently available. We have not been contacted by the applicant to assist with a search for premises and whilst we are aware that this unit is vacant we are not aware that there is any particular issue with letting it and no evidence of long term vacancy has been provided."

COMMENTS ON CONSULTATION RESPONSES:

Comments noted. With regard to the comments made by the Council's Environment Health Officer, requiring the submission of an acoustics survey, it is considered that such a condition would not be required. This is discussed further in the Conclusions section below under the Neighbour Amenity section.

POLICY CONTEXT

Designation applicable to site:
2 Km Buffer for SSSI: Felpham
WSCC Mineral Consultation Areas (permitted waste sites 500m buffer): Bognor Regis HWRS, Shripney Road

DEVELOPMENT PLAN POLICES

EMPDM1	EMP DM1 Employment Land: Development Management
SDSP2	SD SP2 Built-up Area Boundary
TSP1	T SP1 Transport and Development
EMPSP1	EMP SP1 Strategic Economic Growth
OSRDM1	Protection of open space,outdoor sport,comm& rec facilities
HWBSP1	HWB SP1 Health and Wellbeing
QEDM1	QE DM1 Noise Pollution
Bersted Neighbourhood Plan 2014 Policy EE2	Retention of employment uses
Bersted Neighbourhood Plan 2014 Policy EE3	Encourage a diverse range of commerce in the Parish

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

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 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.

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).

The following Policies from the Bedstead Neighbourhood Development Plan 2014-29 apply:

EE2: Retention of employment uses.

EE3: Encourage a diverse range of commerce in the Parish.

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 conflict with relevant Development Plan policies in that it would not provide sufficient parking in line with WSCC parking guidelines as set out in Policy T SP1 of the Arun Local Plan. However, following an assessment it is considered that as there are other alternative modes of transport available within the area e.g. nearby bus stops and cycle lanes and that there are shops and other facilities in close proximity officers consider the location to be sustainable. Additionally it is considered that many users may run or walk to the proposed gym. Thus reducing reliance on motor transport and therefore the need for off-road parking above the levels provided.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background. Even though the proposal would lead to a shortfall in off-road parking provision in line with WSCC parking guidelines as set out in Policy T SP1 of the Arun Local Plan, as above, the location is to be considered to be sustainable due to the other transport options near by e.g. Bus (bus stops) and cycling (cycle lanes).

CONCLUSIONS

PRINCIPLE:

This site is located within the built-up area boundary where the principle of development is acceptable subject to other policies within the local plan. The key Policy considerations in the determination of this application are deemed to be SDSP2, EMP DM1, EMP SP1, HWB SP1, EOSR DM1 of the Arun Local Plan and Policy and EE2 and EE3 of the Bersted Neighbourhood Development Plan.

The NPPF states at paragraph 80 that:"Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development"

The Councils Economic Regeneration Manager has assessed the application whereby they originally objected with regard to the loss of a high quality B1 (office/light industrial) unit. However, following an

assessment of the marketing particulars, as aforementioned, they no longer object. They are satisfied that sufficient efforts have been made to let the unit and will no longer object to the change of use.

The Arun Local Plan 2011-2031 includes Policy EMP DM1 "Employment Land: Development Management". This sets out how existing premises will be protected and enhanced in order to maintain a supply of good quality commercial sites and premises to meet the needs of businesses and the local economy. This Policy states that:

"Existing employment sites and premises will be protected where there remains a good prospect of employment use. Excepting Permitted Development Rights or Local/Neighbourhood Development Orders, change of use from Business Class (B1-B8) or similar sui generis uses will not be permitted unless:

a. It is demonstrated that the site is no longer required and is unlikely to be re-used or redeveloped for industrial/commercial purposes. This should include clear demonstration of marketing, viability appraisal and the suitability of the site to accommodate the proposed use - using a methodology to be agreed by the District Council at pre-application advice stage; or

b. The existing location poses insurmountable environmental harm or amenity which cannot be satisfactorily resolved.

The Council will require evidence that the site has not been made deliberately unviable, that marketing has been actively conducted for a reasonable period of time and that alternative employment uses have been fully explored."

The applicant has provided marketing evidence from 2016 (dated newspaper advert) and has stated in an email that:

"I can confirm the property has been on the market for 3 years now with no interested parties"

Additionally the applicant has provided e-mail evidence from the estate agent that:

"We have had approximately 8 viewings over the marketing period. Generally speaking people have ruled out the property for the following reasons:

Poor loading and HGV access.

Limited internal head height.

Mezzanine floor is of no use to large parts of the market and only increases the amount payable on business rates.

Not desired planning usage.

Style of building is deemed unattractive.

The unit was still vacant at the time of the Officer's site visit. From the details submitted the Officers have no evidence or reason to believe that the B1 unit has been made deliberately unviable.

Officers note the comments received from The Council's Economic Development Manager and note that they initially objected to the loss of what is considered a high-quality B1 (Office/Light industrial) unit. Following assessment of the submitted details (marketing) regarding the number of people who have shown interest in the unit over the marketing period (8 people over 3 years) they now do not object to the proposed change of use at this location.

Officers have considered the loss of a B1 unit, the comments from economic development, length of

time the unit has been marketed for along with the number of enquiries and would do not consider the loss of a B1 unit to be detrimental as to warrant refusal.

Neighbour Amenity:

The proposed change of use is for internal works to enable the property (unit 8) to be used as a gym. The only external work is the addition of an HVAC condenser unit for air-conditioning.

Officers expect that that the proposed D2 gym use would lead to the creation of noise e.g. The clanking of weights and other fitness equipment along with the potential for music to be played. Also it should be noted that the applicant proposed the addition of an air conditioning unit which would result in the need for a the addition of an HVAC condenser to the external elevation of the building. The application site is within an area featuring a large amount of B1 (Office/Light industrial) along with a more specific assesment of the business/uses on site (Easyday Beds, car maintenance - Tyre Express and Engineering Plastics amongst others). The nearby residential properties are located across the other side of the Shripney Road, sited over approximately 25 metres from the application site. Therefore, it is considered that it would not have a detrimental effect on the occupiers of adjoining units and nearby residential properties.

As such it is considered that a condition requiring an acoustics assesment would not be required and that the proposal would adhere to Policy QE DM1 of the Arun Local Plan.

HIGHWAYS, TRANSPORT AND PARKING:

The West Sussex Parking Standards (2003) set out a requirement for gym uses of 1 parking space per 22m² of floor area. The proposed floor area is approximately 287.9553m² per floor which gives a total of 575.9106m² and the parking requirement is therefore 26 spaces. The proposal has use of up to 14 parking spaces as shown on submitted plan 02-11-B. Therefore there is a shortfall of 12 spaces. However this location is within an area with nearby bus stops, a fast food outlet and various other shops including supermarkets. While there would be a shortfall in parking provision, this location allows people in nearby areas to walk or cycle (there are cycle lanes) to the gym, along with the bus stop in close proximity to the site (walking distance). A condition requiring secure cycle parking will be imposed as none has been shown on the submitted plans.

Therefore it is considered that while there is a shortfall in parking provision the proposal is in a fairly sustainable location and , as aforementioned, can be accessed by other means rather than just by motor vehicle (car).

FLOODING:

Based on the Environment Agencies Flood Map for Planning the site appears with Flood zone 1, an area with a low probability of flooding. Therefore it is considered that the proposed change of use would have a detrimental impact on flooding or flood risk.

NEIGHBOURHOOD DEVELOPEMNT PLAN:

Policy EE2: Retention of employment uses. Proposals for the redevelopment or change of use of land or buildings in employment or service trade use to non-employment uses will not be permitted unless the existing use can be shown to be no longer viable. Evidence should be provided by the developer that the site has been actively marketed for a minimum of 12 months and that no sale or let has been achieved.

Policy EE3: Encourage a diverse range of commerce in the Parish. Change of use to Class B1 Light

Industrial use or development for Class B1 (Business use) purposes will be supported where the impact on surrounding residential and community amenity is acceptable and other policy considerations are complied with. Within the existing commercial areas, shown on the map at Appendix G, permission for new development or change of use to Class B1 (Business uses), Class B2 (General Industrial use)and B8 (Storage or Distribution) will normally be permitted.

The Neighbourhood Plan states at paragraph 5.3.2 that:"Opportunities for employment within the Parish are limited which contributes to the massive amount of out-commuting each day. Smallscale employment sites contribute to the liveliness and activity in the parish and also support trade in Parish shops."

The Bersted Neighbourhood plan, via policy EE2, seeks to maintain small scale employment sites within Bersted as they are limited and their loss would contribute to further out-commuting each day. Therefore Policy EE2 seeks the retention of employment uses.Officers note, as aforementioned, that the applicant has provided marketing particulars and details stating that the existing B1 use has been marketed for 3 years with little interest. Additionally the Council's Economic Development Manager does not object to the loss of the B1 use at this location. Additionally the unit was still vacant at the time of the Officer's site visit. From the details submitted the Officers have no evidence or reason to believe that the B1 unit has been made deliberately unviable. While Officers consider that the gym use would likely provide less jobs than a B use class e.g. B1 (Office/light industrial) it would still provide jobs (personal trainers, reception staff etc.)

The application site falls within an existing commercial area (industrial) as shown on the map at Appendix G of the Bersted Neighbourhood development Plan (Clock Park) and it proposes a D2 leisure use (gym) rather than either a B1 (Business uses), Class B2 (General Industrial use) and B8 (Storage or Distribution) which will normally be permitted. Officers consider that while Policy EE3 does not mention that D2 uses would normally be permitted, it does not seek to preclude these uses within the commercial areas as shown on the map at Appendix G of the Bersted Neighbourhood development Plan. Policy EE3 merely aims to limit these use classes to these areas as it is considered that B2 and B8 uses are considered inappropriate for the Parish due to the heavy goods traffic they can generate.

Having regard to the above assesment, Officers consider that the proposal would comply with Policies EE2 and EE3, along with the overall aims of the Bersted Neighbourhood Development Plan.

SUMMARY:

It is considered that a grant of planning permission will bring a currently empty building back into use, securing new jobs and contributing to the vitality of the area. Additionally it is considered that the proposed change of use would not have a detrimental impact on the amenity of the occupiers of neighbouring units. As, such it is considered that the proposed change of use would comply with the relevant conditions of the Arun Local Plan and the Bested Neighbourhood Development Plan. It is therefore recommended that permission be granted subject to the following conditions

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 (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 development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby approved shall be carried out in accordance with the following approved plans:

0119-01 Existing Ground Floor and First Floor
 02-01 Existing Front Elevation
 02-02-GF Proposed Ground Floor Rev A
 02-02-FF Proposed First Floor Rev A
 02-10 Block Location Plan
 02-11-B Proposed Parking Plan

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy D DM1 of the Arun Local Plan.

- 3 The D2 use hereby granted (gym) shall not come into use until details of cycle parking has been submitted to and agreed in writing by the Local Planning Authority. The cycle parking shall thereafter be retained for as long as the use hereby permitted takes place at the premises.

Reason: To ensure that adequate and satisfactory provision is made for the parking of bicycles in accordance with policies D DM1 and T DM1 of the Arun District Local Plan.

- 4 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.

- 5 INFORMATIVE: The applicant's attention is drawn to the requirements of the Environmental Protection Act 1990 and the Clean Air Act 1993 with regard to burning on site. A 'Statutory Nuisance' may be caused by smoke and ash from fires or noise from the cutting or chipping trees. In addition, air quality could be adversely affected on large projects. The granting of this planning permission does not permit a statutory nuisance to be caused. The Environment Agency should also be contacted regarding Exemption Permits to burn on site.
- 6 INFORMATIVE: The granting of this planning permission does not in any way indemnify against statutory nuisance action being taken should substantiated complaints within the remit of the Environmental Protection Act 1990 be received.
For further information please contact the Environmental Health Department on 01903 737500