

Recommendation Report for Planning Permission

REF NO: BR/132/15/PL

LOCATION: Unit 9 Durban Business Centre
Durban Road
Bognor Regis

PROPOSAL: Change of use from Warehouse (B8 Storage & Distribution) to Gymnasium (D2 Assembly & Leisure)

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
	No external alterations are proposed.
SITE AREA	0.028ha
RESIDENTIAL DEVELOPMENT DENSITY (NET)	N/A
TOPOGRAPHY	Predominantly flat.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	2.5m metal spiked fence.
SITE CHARACTERISTICS	Two storey metal industrial building with shallow gable roof and parking to front. The rear of the building faces adjoins unit 5 which faces Barnham Road.
CHARACTER OF LOCALITY	Industrial park with well size car park, two storey shallow gable roof metal buildings and access road.

RELEVANT SITE HISTORY

No relevant planning history.

REPRESENTATIONS

Representations received:

Bognor Regis Town Council

Object on the grounds that there us insufficient facilities for the disabled and there is a lack of changing and toilet facilities.

Comments on Representations received:

The objections are not considered to be planning issues as these facilities could be provided without the need for planning consent as they are internal.

CONSULTATIONS

Economic Regeneration

Environment Agency

Consultations responses received:

Economic Regeneration

Economic Development object to this application. This unit is situated on one of the two main industrial areas in Bognor Regis. A recent survey, 17th June 2015, reveals that there are only 3 vacant units in this area of which Unit 9 is one and total vacant units across the two main industrial areas in Bognor Regis is in single figures.

This unit is a good quality multi purpose industrial unit and whilst we accept that it has been empty for some months we have been in continuing discussions with the agents who advise that they have had interest in this and the other units, and if this proposal is not agreed they have an industrial business who are wishing to take the unit.

The application mentions a need for such facilities due to the recent closure of Fitness First. In our view since the proposed gym advises that they expect to only have 30 users at any one time it seems unlikely that this facility could replace Fitness First. Enquiries also reveal that existing gyms in the very near vicinity have the capacity to take new members.

The application is not from a local business who wishes to expand and the number of jobs created is not significant enough to have any effect on our view.

Environment Agency- No objections.

Comments on Consultation responses:

Comments noted

POLICY CONTEXT

Designation applicable to site:

Adopted Local Plan

PD Restriction

DEVELOPMENT PLAN POLICIES

[Arun District Local Plan 2003:](#) GEN2
GEN7
GEN12

[Publication Version of the Local Plan \(October 2014\):](#)

Built-up Area Boundary
The Form of New Development
Parking in New Development
EMP SP1 Employment land provision
OSR DM1 Open Space, Sport and Recreation
HWB SP1 Health & Wellbeing

PLANNING POLICY GUIDANCE

NPPF
NPPG

National Planning Policy Framework
National Planning Practice 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.

The Bognor Regis Neighbourhood Plan has recently been out to consultation and will now be reviewed prior to submission to Arun District Council.

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 in a loss of a B8 (storage and distribution) unit without exceptional circumstances.

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

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. There are no policies in the current local plan that seek to protect employment land from alternative development. Therefore, the application would be determined in accordance with the National Planning Policy Framework (NPPF) and with regard to the Emerging Local Plan.

The NPPF states at paragraph 18 that: "The Government is committed to securing economic growth in order to create jobs and prosperity, ...". It goes on to state at paragraph 20 that: "To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century". Paragraph 22 states that "Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose and that land allocations should be regularly reviewed". This paragraph goes on to say that: "Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities."

The Councils Economic Regeneration Officers have considered the proposal and state that:

"This unit is situated on one of the two main industrial areas in Bognor Regis. A recent survey, 17th June 2015, reveals that there are only 3 vacant units in this area of which Unit 9 is one and total vacant units across the two main industrial areas in Bognor Regis is in single figures.

This unit is a good quality multi purpose industrial unit and whilst we accept that it has been empty for some months we have been in continuing discussions with the agents who advise that they have had interest in this and the other units, and if this proposal is not agreed they have an industrial business who are wishing to take the unit."

They are clearly of the view that there is a reasonable prospect of the unit being let for commercial/industrial purposes in accordance with the guidance in the NPPF.

The emerging Local Plan (Arun Local Plan (2011 - 2031) Publication Version (October 2014)) 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. Where acceptable to the Council, alternative land/premises or an equivalent financial contribution will be provided to enable the business uses to relocate or be replaced elsewhere; or
- c. 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."

It is considered that the guidance in the NPPF, the evidence of the Economic Regeneration Officer and the emerging Local Plan policy all combine to make the proposal unacceptable by virtue of the loss of the B1/B8 premises.

It is acknowledged that there is also support within the NPPF and the emerging Local Plan for community/sports & recreation type uses but it is not considered that this outweighs the need to protect employment land with a good chance of being used for its approved use.

HIGHWAYS TRANSPORT AND PARKING

Planning policies allow for the safe movement of pedestrians and vehicles, giving priority to pedestrians, and car parking. Car parking requirements will vary according to the accessibility of the site to public transport or services, or location within a town centre.

In order to calculate the parking requirements for the proposed development, I have referred to the West Sussex Parking Standards (2003). This includes a standard of 1 space per 22m² for D2 leisure uses. I understand that unit 1 provides a total of 187m² and I would therefore expect parking provision for that unit alone (i.e. unit 2's parking spaces should be retained solely for that unit) to be in the region of 8 spaces. There would be roughly this amount of spaces provided to the rear of the building. This location allows people in nearby areas to walk or cycle to the premises and therefore given that cycle parking is also proposed, the parking provision that is currently available would be considered to be acceptable.

The proposal is recommended for refusal.

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 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 the following impacts (negative, Neutral or positive) 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 is considered to have a neutral impact.

RECOMMENDATION

REFUSE

- 1 The change of use would result in a loss of B8 employment floor space reducing potential for additional employment in the future contrary to emerging Local Plan policy EMP DM1 and paragraphs 18 to 22 National Planning Policy Framework.
- 2 **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 reason(s) 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 meet with the Applicant 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.