

Recommendation Report for Planning Permission

REF NO: BR/205/17/PL

LOCATION: Unit 3, Block J
Durban Road
Bognor Regis

PROPOSAL: Permanent Change of use to "D2", for use as softplay facility, incorporating small cafe.
This application follows BR/282/15/PL on which a temporary change of use had been granted.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

As above

Retention of a soft-play facility (D2 use class) incorporating a small cafe (A3 use class) in a unit that was formerly a B1 use (car repair unit) on a permanent basis within South Bersted Business Park (Durban Road Industrial Area). The business applying for this development is now based at the premises - Unit 3, Block J - and has been for approximately 30 months (i.e. two and a half years).

An air conditioning unit has been installed on the eastern side of the building and car parking is available on the east side also. Four spaces are provided off-street for cars to be parked in tandem (blocked in) and parking for further cars is available to the front of the units, but this is shared with other businesses within the building.

SITE AREA

Approximately 314 metres² including parking areas. The unit area is approximately 133 metres square.

TOPOGRAPHY

Predominantly flat.

TREES

None of any significance affected by the building that accommodates the soft-play facility.

BOUNDARY TREATMENT

None, open business park / commercial park.

SITE CHARACTERISTICS

Single storey pale yellow painted brick industrial unit with a corrugated roof and hard surfaced parking to side and front and a

turning area for vehicles to the rear.

CHARACTER OF LOCALITY

The application property is located within South Bersted Business Park (Durban Road Industrial Area), which is occupied primarily by single storey buildings and modern warehouses, with off-street parking, delivery areas and storage compounds.

RELEVANT SITE HISTORY

A previous planning application BR/178/15/PL was refused for the same proposed development as a permanent change of use. It was refused owing to conflict with emerging policy EMP DM1 and the NPPF as it would have meant a loss of B1 floor-space and would have resulted in less jobs per square metre. Since then as temporary planning permission (BR/282/15/PL).was granted for 30 months (i.e. two and a half years), which has proved to be highly successful.

REPRESENTATIONS

Representations received:

Bognor Regis Town Council

No objection.

A letter has been received from one of the ward members for the area and the local county councillor strongly supporting the application. Minilight Leisure Service CIC have done a fantastic job and engaged with the community.

Comments on Representations received:

Support noted.

CONSULTATIONS

Engineering Services Manager

Engineers (Drainage)

Environment Agency

Environmental Health

Economic Regeneration

Consultations responses received:

ADC ENGINEERING SERVICES MANAGER:

No comment to make on the planning application.

ENVIRONMENTAL HEALTH:

No objection raised.

ECONOMIC REGENERATION:

Support the application.

Comments on Consultation responses:

Comments noted

POLICY CONTEXT

Designation applicable to site:

South Bersted Business Park (Durban Road Industrial Area)
Within the built-up area boundary (BUAB)

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:	<u>GEN12</u>	Parking in New Development
	<u>GEN2</u>	Built-up Area Boundary
	<u>GEN7</u>	The Form of New Development
Publication Version of the Local Plan (October 2014):		EMP DM1 Employment land:
		Development Management
		SD SP2 Built-Up Area Boundary
		D DM1 Aspects of Form and Design Quality
Bognor Regis Neighbourhood Plan 2015 Policy 8A		Design Excellence
Bognor Regis Neighbourhood Plan 2015 Policy 8B		Car Parking
Bognor Regis Neighbourhood Plan 2015 Policy 8i		Northern part of Durban Road Industrial Area

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework
NPPG	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.

A new local plan is in preparation may be a material consideration when determining Planning Applications. At this stage the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and supporting documents were submitted for independent examination on 30 January 2015. The Examination into the submitted plan was commenced but is currently suspended whilst Arun District Council addresses matters raised by the Inspector.

A number of Main Modifications to the Arun District Local Plan 2011-2031 (Publication Version) October 2014 were approved by the Council on 22nd March 2017 and consultation on these has taking place. The Main Modifications should be read alongside the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and where there are changes the Main Modification may also be material consideration to take into account. The examination is due to re-commence in Autumn 2017 following publication of modifications to the 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 (Regulation

14).

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton. The written Ministerial Statement of 13 December 2016 confirms that relevant policies for the supply of housing in Neighbourhood Plans should not be deemed to be out of date where all of the following circumstances arise;

- The NDP has been part of the development plan for 2 years or less or the ministerial statement is less than 2 years old
- The NDP allocates sites for housing
- The Council can demonstrate a three-year supply of deliverable housing sites

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 (Regulation14).

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 emerging Local Plan is only a material consideration at this stage, however, the proposal is considered to conflict with emerging policy EMP DM1 and the NPPF but an exception was made when the original planning permission (BR/205/17/PL) was granted for a temporary change of use for a period of 30 months (i.e. 2.5 years) from B1 to use as a soft-play facility.

The proposal would comply with other relevant Development Plan policies such as GEN7 in that it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the properties adjoining South Bersted Business Park (Durban Road Industrial Area), nor would it have an adverse impact upon the established character of the surrounding area.

OTHER MATERIAL CONSIDERATIONS

The proposal is considered to conflict with emerging policy EMP DM1 and the NPPF but exception can be made as a change of use from B1 has been in place for a temporary period of 30 months. The application is for a local business looking to expand, which emerging policy EMP DM1 makes a partial exception for. Therefore, in this instance the proposed permanent change of use is considered to be acceptable and although would conflict with policy requirements (including policy 8i of the Bognor Regis NDP, the NPPF and emerging policy EMP DM1) would create a modest number of jobs and a community use.

CONCLUSIONS

PRINCIPLE

The 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 (2003) 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 says at paragraph 18 that:

"The Government is committed to securing economic growth in order to create jobs and prosperity, ..."

It goes on to say 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 says 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".

Paragraph continues by saying 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 emerging Local Plan - Arun Local Plan (2011 - 2031) Publication Version, October 2014 (updated March 2017) 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 community.

Policy EMP DM1 says:

"Existing employment sites and premises will be protected where there remains a good prospect of employment use. Excepting permitted development rights (PDRs) or Local / Neighbourhood Development Orders, change of used 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."

Bognor Regis Neighbourhood Plan - policy 8(i) - Northern part of Durban Road Industrial Area - also seeks to promote uses with high numbers of jobs per square metre and the former B1 use at the premises is considered to be one of these uses.

PERMANENT LOSS OF B1 SPACE

The current application proposes to make the soft-play facility permanent, which would constitute a permanent loss of B1 floor space in the existing unit on South Bersted Business Park.

Consideration must be given to the application to make the soft-play facility permanent rather than temporary in the assessment of the acceptability of the proposal. The proposal is considered to conflict with emerging policy EMP DM1 and the NPPF, but an exception was made three years ago as the application then was for a temporary change of use from B1: and the emerging local plan is only a material consideration at this stage.

The proposed change of use would not be temporary and there would be a permanent loss of B1 floor-space within a vibrant business park. The application is for a local business looking to expand, which emerging policy EMP DM1 also makes a partial exception for. Over the course of the last 30 months, the development has proved to be fully occupied under the temporary permission for change of use to a soft play facility. The facility employs local people and would ensure the employment of 5 people - one permanently and 4 on a part time basis. The premises serve a valuable community use providing internal soft-play space for the children of parents who work at the South Bersted Business Park and in the local area.

ECONOMIC REGENERATION

Economic Regeneration worked with the applicant for many months to try to find an alternative site for this facility prior to the temporary permission being granted. This site has proved to be successful for the business which provides a much needed local facility. In addition the situation with vacant units has not changed and there would still be no alternative site available.

DESIGN AND IMPACT ON NEIGHBOURING AMENITY

The only external change over the course of the last 30 months has been the installation of a small air conditioning unit on the building. This is considered to be in character with the industrial / commercial character of the area. The premises are not close to any residential properties and it has not created a detrimental impact on neighbour amenity over the last 30 months. Consequently, it is unlikely to create a detrimental impact once the development has permission for a permanent change of use to a softplay facility.

CAR PARKING PROVISION

Planning policies allow for the safe movement of pedestrians and vehicles, giving priority to

pedestrians and car parking. In order to calculate the parking requirements for the proposed development, reference is made to the West Sussex Parking Standards (2003). These standards include 1 space per 22 square metres for leisure uses (Use Class: D2). It is understood that the unit provides a total of 133 square metres and it would therefore be expected that parking provision for the unit to be in the region of 6 spaces. There is a turning head at the rear of the premises for cars to manoeuvre and for children to be dropped-off; together with 4 parking spaces for staff at the side of the premises. This is a shortfall of 2 spaces as specified in the Parking Standards. However, as there is no particularly intense pressure on on-street parking, the proposal is considered to meet standards for off-street parking in accordance with policies GEN7 and GEN12 of the Arun District Local Plan.

CONCLUSION

The proposal to retain the soft-play facility on a permanent basis is acceptable.

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 approved shall be carried out in accordance with the following approved plans:

Site Plan
Drive/car parking
Product Dimensions

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy GEN7 of the Arun District Local Plan.

- 2 Notwithstanding the provisions of any Town & Country Planning General Development Order or Use Classes Order (or any Order revoking or enacting that Order), the use hereby permitted shall be restricted to soft-play within D2 of the Use Classes Order.

Reason: To enable the Local Planning Authority to control the use of the premises, in accordance with Arun District Local Plan policy GEN7.

- 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 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.