

Recommendation Report for Planning Permission

REF NO: BR/298/17/PL

LOCATION: Unit 1
Christie Place
Bognor Regis
PO22 9RT

PROPOSAL: Change of use from industrial/ warehouse storage (B8 Storage or Distribuion) to canine day care facility (Sui Generis).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above
SITE AREA	904 sqm
TOPOGRAPHY	Predominantly flat.
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	Part open plan and chain link fencing
SITE CHARACTERISTICS	Vacant industrial unit within an industrial estate.
CHARACTER OF LOCALITY	Predominantly commercial with the nearest residential properties being the rear of two storey dwellings on Orchard Way approximately 45m south of the application building.

RELEVANT SITE HISTORY

BR/11/54	Outline For Residential And Industrial Development	ApproveConditionally 02-03-54
BR/11/54/A	Outline For Residential And Industrial Development	ApproveConditionally 04-04-56
BR/11/54/A/A	Factory Warehouse And Offices	ApproveConditionally 31-01-62
BR/11/54/A/T	Positioning Of Sliding Doors Factory	Approve 01-10-62
BR/11/54/B/T	Use Of Warehouse And Office Space For Industrial Use	ApproveConditionally 20-11-63 REPORT(ODB)

BR/11/54/B/Y Link Corridors Between

Approve
04-12-63

BR/299/17/A 1 No. non-illuminated hoarding sign

BR/97/09/ Erection of new storage building

ApproveConditionally
19-08-09

None

REPRESENTATIONS**REPRESENTATIONS RECEIVED:**

Bognor Regis Town Council

No objection

2 letters of objection from properties in Orchard Way on the grounds that:

- it would be detrimental to the enjoyment of garden and property
- the previous commercial user was audible
- a doggy care use will be extremely loud
- agree with Council's environmental health assessment
- no visible site notice

COMMENTS ON REPRESENTATIONS RECEIVED:

The issue of noise and disturbance will be discussed in conclusions section. The Council has photographic records of site notice been posted on the site.

CONSULTATIONS

Environmental Health

Economic Regeneration

Estates Manager

CONSULTATION RESPONSES RECEIVED:

Economic Development

No objection. Satisfied with the evidence that proprietors made sufficient efforts to market the site, without success, for continued industrial use.

Environmental Health

Object. Refuse on grounds of insufficient information. Following a visit EHO are concerned that the

location of the premises, along with the poor noise insulation of the building would lead to severe noise nuisance to local residents from dogs. Much more extensive information required on management and noise insulation

COMMENTS ON CONSULTATION RESPONSES:

Comments from environmental health agreed with.

POLICY CONTEXT

Designation applicable to site:

Built up area boundary

DEVELOPMENT PLAN POLICES

[Arun District Local Plan \(2003\):](#)

GEN12	Parking in New Development
GEN2	Built-up Area Boundary
GEN32	Noise Pollution
GEN33	Light Pollution
GEN34	Air Pollution
GEN6	Amount of New Commercial Development
GEN7	The Form of New Development

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

D DM1	Aspects of Form and Design Quality
EMP SP1	Employment land provision
QE DM1	Noise Pollution
QE DM2	Light Pollution
QE DM3	Air Pollution
SD SP1	Sustainable Development
SD SP2	Built -Up Area Boundary
SKILLS SP1	Employment and Skills
T SP1	Transport and Development
D DM4	Extensions & Alterations to Existing Buildings
D SP1	Design
EMP DM1	Employment land:Development Management

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 and is 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.

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. The examination was completed in September 2017.

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

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. 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: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton.

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 relevant policies in the Bognor Regis Neighbourhood Plan have been considered in this report.

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 adopted Arun Local Plan and the Bognor Regis Neighbourhood Plan are both silent in respect of protecting employment land from alternative development. Relevant policies do exist on noise and amenity. Therefore, it is necessary to consider the application against other material considerations.

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 namely:

- * The guidance contained within the National Planning Policy Framework;
- * Proposed policy within the emerging Local Plan.

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 Arun District Local Plan 2011-2031 (Publication Version).

POLICY DISCUSSION:

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 then 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".

Paragraph 22 also states 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 NPPF also indicates that opportunities for sport and recreation can make an important contribution to the health and well-being of communities.

The Councils Economic Regeneration Officers have assessed the application and have raised no objection on the grounds that they are satisfied that sufficient efforts were made to market the site for industrial purposes.

The emerging Local Plan (Arun District 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 agent has stated that the property has been vacant for in excess of a year and that marketing for industrial use had taken place without success. It is therefore considered that the proposal is in accordance with emerging policy and guidance within the NPPF.

THE NEIGHBOURHOOD PLAN:

Bognor Regis Neighbourhood Plan Policy 8i is relevant to applications within the Durban Road industrial estate. It states that:

"Development Proposals are encouraged that contribute to the development of this area into a demonstration project for self-build/self-commissioned low carbon working and living with a mix of uses: industrial, residential, employment, small scale workshops with high numbers of jobs to the floor area. The development should provide future access to the existing sewerage infrastructure as required by the relevant authorities."

However, this policy does not prevent applications for uses other than those listed in the policy and therefore there is no conflict with the application proposal.

NOISE GENERATION

The Council's Environmental Health section have raised a substantive objection that given the complete lack of details concerning noise management and noise insulation the application should be refused. The proposal for dog use has the potential to generate significant levels of noise in close proximity to the rear of properties in Orchard Road and without any details as to how this can be acceptably contained within the building the applicant has failed to demonstrate that the use can be operated without unacceptable noise and disturbance to neighbouring residential amenity.

SUMMARY:

Whilst the non industrial use of the premises is compliant with emerging policy and national guidance the applicant has failed to demonstrate that there will be no unacceptable harm to neighbouring residential amenity and the application should therefore be refused for the following reason:

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), 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 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

REFUSE

- 1 The Local Planning Authority is not satisfied that it has been demonstrated that the proposed use as a canine day care facility can be carried out without unacceptable harm to neighbouring residential occupiers by way of noise in conflict with policies GEN7 & GEN32 of the Arun District Local Plan, policies QE DM1 of the emerging plan and the 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.