

Recommendation Report for Planning Permission

REF NO: R/145/21/PL

LOCATION: 1 Artex Avenue
Rustington
BN16 3LN

PROPOSAL: Variation of condition 5 following R/20/12/ relating to change from 16 to 22 children.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Variation of condition 5 to allow use of the premises for 22 children as opposed to 16 currently permitted.
SITE AREA	Approx. 270 sq.m.
SITE CHARACTERISTICS	The site is occupied by a detached two-storey building, on a corner plot at the junction of Worthing Road and Artex Avenue. There is a flat roof garage building in the north-eastern corner of the site.
CHARACTER OF LOCALITY	The site is in a mixed use area. An industrial estate extends to the north whilst to the east and west there are predominantly residential dwellings with groups of shops further to the east. There is a nursing home roughly opposite the site. There are bus stops nearby on Worthing Road.

RELEVANT SITE HISTORY

R/20/12/	Change of use from residential dwelling (C3 dwelling house) to childcare day nursery (D1 non-residential institution)	ApproveConditionally 30-05-12
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R/20/12/ granted permission for change of use from a dwelling to a day care nursery for 16 children.

REPRESENTATIONS

Rustington Parish Council - No objection

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

WSCC Highways - No objection

ADC Environmental Health - Objection on account of noise.

COMMENTS ON CONSULTATION RESPONSES:

The intensification of use from 16 to 22 children is not considered to cause significant additional noise nuisance such that a refusal of the application is warranted.

POLICY CONTEXT

Designation applicable to site:

NO PUBLIC SEWER

ADOPTED LOC PLN

CLASS A ROAD

DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

DDM1	D DM1 Aspects of form and design quality
TSP1	T SP1 Transport and Development
QEDM1	QE DM1 Noise Pollution

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

As there is no additional built form proposed no policies in the Rustington Neighbourhood Plan are 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 considered to comply with relevant Development Plan policies in that no adverse impacts upon the design or residential amenity will result due to the variation of condition.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

The key issues are the generation of noise and traffic impacts of the development.

The intensification of the use as proposed by the variation of condition is acceptable in principle being within the built up area boundary subject to policies D DM1 and T SP1 of the Arun Local Plan.

Policy D DM1 sets out 13 design aspects of which applications should be assessed against. These include: Character, Appearance, Impact, Innovation, Adaptability, Crime Prevention, Trees, Public realm, Layout, Public Art, Density and Scale.

Policy T SP1 seeks to ensure that development: provides safe access on to the highway network; contributes to highway improvements & promotes sustainable transport, including the use of low emission fuels, public transport improvements and the cycle, pedestrian and bridleway network.

The development will not involve external alterations to the building and is acceptable in design terms.

The development will not cause any significant impact on residential amenity. The addition of 6 children is not considered to cause a change in the use such that significant noise nuisance would occur over and above the existing use.

Condition 4 on the original permission stated:- "Before the development hereby permitted commences, a scheme shall be agreed with the Local Planning Authority which specifies the provisions to be made for the control of noise emanating from the site and this scheme shall be adopted for perpetuity thereafter."

Reason: To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties in accordance with Arun District Local Plan policy GEN7.

Noise emanating from the site is controlled by the above so should not increase as a result of this development.

Policy QE DM1 Noise pollution requires that a noise assessment be submitted with the application however in this case the limited number of additional children and the existence of condition 4 of R/20/12/ means such an assessment is not necessary.

The parking for the use has predominantly been along Artex Avenue. No complaints have been received regarding this use. WSCC Highways Department have no objection to the scheme.

The scheme is considered to accord with relevant local planning policy and is recommended for approval subject to the following conditions.

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 Amended wording of condition 5:-

The building shall be used as a childcare day nursery for a maximum of 22 children at any one time and for no other purpose (including any other purpose in Class E(f) of the Schedule to the Town & Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any other Statutory Instrument revoking and re-enacting that Order).

Reason: To enable the Local Planning Authority to maintain control in the interests of the amenities in accordance with Arun Local Plan policy D DM1.

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 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.

3 INFORMATIVE: All other conditions of R/20/12/ remain in force following the approval of this application.