

Recommendation Report for Planning Permission**REF NO:** R/149/13/**LOCATION:** 5 The Street
Rustington**PROPOSAL:** Application for variation of condition 3 previously approved under planning application R/221/12 - opening hours**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION	Planning permission R/221/12 permitted the change of use from retail to a dental surgery. Condition 3 from planning permission R/221/12 states that the opening hours for the business shall be 09:00-18:00 Monday to Friday, 09:00-12:30 Saturday and that no business is permitted on Sundays, bank or public holidays. This application seeks to vary this condition to 8:00am-21.00pm every day to allow for cases of emergency dental treatment.
SITE AREA	Approximately 170 square metres.
RESIDENTIAL DEVELOPMENT DEN	N/A
TOPOGRAPHY	Predominantly flat.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	Open boundary marked by footpath to the front.
SITE CHARACTERISTICS	A two storey mid-terrace premises which is currently vacant. The unit in question is located on the ground floor with residential on the first floor. The residential property is set behind the unit and has tile hanging and brick elevations.
CHARACTER OF LOCALITY	Situated in a main shopping parade within Rustington village centre, there are retail units and cafes along both sides of the The Street with residential generally located above.

RELEVANT SITE HISTORY

R/221/12/	Change of use from retail (A1 Shops) to dental surgery (D1 Non-Residential Institution)	ApproveConditionally 14-02-2013
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REPRESENTATIONS

Representations received:

Rustington Parish Council

No objection.

One letter of objection.

As a resident living above the shops it would be unfair to extend opening hours.

Considered to be a hair salon which will play music and have chemical smells.

Should particularly not open on a Sunday as would be unfair on residents.

Comments on Representations received:

Noted.

In response to the letter of objection, the unit will not be hair salon as it has planning permission for a dental practice under planning permission reference R/221/12. Therefore, increasing the hours of operation is acceptable from a planning perspective given its location in a busy centre of town. Environmental Health have no objection to the proposal provided that full details of a scheme for sound insulation have been submitted to and approved by the Local Planning Authority before the use commences. This will mitigate any adverse effects on to neighbouring properties.

A further condition will be placed to ensure that planning permission will be required for any use other than a dental practice as approved under R/221/12.

CONSULTATIONS

Environmental Health

Consultations responses received:

Environmental Health

No objection.

Dental practices can give rise to complaints from neighbours about noise from drilling, suction devices and other machinery. The nearest noise sensitive properties are the dwellings above the parade. The only other potential source of noise would be disturbance arising from patients arriving and leaving.

The applicant has stated in the planning statement that "the proposed surgeries will be individually soundproofed to ensure that no noise travels between surgeries or between surgeries and the waiting room or to the flats above". It goes on to state that "A scheme of soundproofing will be designed and implemented before the proposed development is brought into use".

On this basis, there is no objection to the revision of hours, provided that a condition is placed on any permission to request full details for a scheme of sound insulation at the premises and for these details to be approved by the Local Planning Authority before the change of use can occur.

Comments on Consultation responses:

Comments noted. A condition will be placed in accordance with the recommendation made by Environmental Health for sound insulation details at the premises.

POLICY CONTEXT

Designation applicable to site:

Within the built up area boundary

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:

[GEN2](#)

Built-up Area Boundary

[GEN7](#)

The Form of New Development

PLANNING POLICY GUIDANCE

NPPF

National Planning Policy Framework

POLICY COMMENTARY

The above policies combine to describe the criteria against which the application will be assessed particularly with regard to:

The Development Plan consists of the Arun District Local Plan 2003 and the South East Plan adopted in 2009.

It should be noted that the Arun District Local Plan was adopted in 2003 and the South East Plan in 2009.

In accordance with paragraphs 214 of the NPPF, the South East Plan is afforded full weight as part of the development plan. Footnote 41 (page 49) states the Governments clear policy intention to revoke regional strategies.

Paragraph 214 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight but, because it predates 2004, a reduced 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. It should be noted that the NPPF states that weight is given to individual policies and not to the plan as a whole.

NPPF Paragraph 216 confirms that weight can be given to policies in emerging plans following publication. The Council published the Draft Arun Local Plan in July 2012 and this is a material consideration in the determination of this planning application. A pre-submission Plan has yet to be endorsed and published. Following publication of a pre-submission draft, there is required to be a formal public consultation, resolution of objections, examination and formal adoption. At this time, the emerging Local Plan is afforded very limited weight in terms of the decision making process

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 it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it have an adverse impact upon the established character of the surrounding area.

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

Planning permission R/221/12 permitted the change of use from retail to a dental surgery. The unit is currently vacant and this use has yet to be implemented.

Condition 3 from planning permission R/221/12 states that the opening hours for the business shall be 09:00-18:00 Monday to Friday, 09:00-12:30 Saturday and that no business is permitted on Sundays, bank or public holidays. This application seeks to vary this condition to 8:00am-21.00pm every day to allow for cases of emergency dental treatment.

The unit is situated within the main shopping parade of Rustington High Street. There is residential accommodation above the premises but set back at some distance. The extension of opening hours is not considered to cause any unacceptable adverse effects from a planning perspective given the busy nature of the street scene and surrounding area.

Environmental Health have no objection to the increase in operating hours, provided that a condition is placed to request full details of a scheme for sound insulation which is submitted and approved by the Local Planning Authority before the change of use can occur. This condition is therefore recommended to be added to fulfil this requirement. Such a condition will mitigate any adverse effects that may result from the proposed increase in opening hours.

It is therefore that the application be approved, 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 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, a neutral impact has 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).

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: block plan and existing and proposed floor plans.

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

- 3 The change of use hereby permitted shall not begin until full details of a scheme for sound insulation has been submitted to and approved by the Local Planning Authority. The insulation shall be installed before the premises are first brought into use and shall be maintained in an effective manner thereafter.

Reason: To protect the amenities of occupiers of adjoining properties in accordance with Arun District Local Plan policies GEN7 and GEN32.

- 4 The building shall be used for a dental surgery and for no other purpose (including any other purpose in Class D1 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 District Local Plan policies GEN7.

- 5 **INFORMATIVE:** Statement pursuant to Article 31 of the Town and Country Planning (Development Management Procedure)(England) (Amendment No. 2) Order 2012. 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.