

Recommendation Report for Planning Permission

REF NO: R/211/18/PL

LOCATION: Phoenix Terrace, Unit 2
Artex Avenue
Rustington
BN16 3LN

PROPOSAL: Change of use from dog day care centre (Sui Generis) to health & fitness centre (D2 Assembly & Leisure)

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above. This application proposed internal changes only.
SITE AREA	5,300 sq metres
RESIDENTIAL DEVELOPMENT DENSITY (NET)	N/A
SITE CHARACTERISTICS	Mid 2 storey unit. Grey clad elevations. door and glazing to front . Telecom shop at unit 3. Commercial printers at no.1. Car parking to front. The last use at the property was a dog day care business known as Paws, Play, Stay (sui generis use class).
CHARACTER OF LOCALITY	Established industrial estate with a mix of industrial uses.

RELEVANT SITE HISTORY

R/257/13/	Change of use from B1 (Business) to a dog day care centre & boarding facility (Sui Generis)	ApproveConditionally 07-03-14
R/27/11/	Change of use of light industrial unit to a gym leisure sports facility (D2)	ApproveConditionally 15-04-11

Officers note previously granted application ref: R/27/11/ for the Change of use of light industrial unit to a gym leisure sports facility (D2) nearby at Unit 2 Nairn Business Centre, Artex Avenue.

The Planning officer noted that:

'there are no specific policies within the Arun District Local Plan which seek to ensure the retention of industrial uses within industrial estates and business parks.'

Officers note that since this application was granted the Arun Local Plan 2011-2031 and the Rustington Neighbourhood Plan 2014-2029 have been adopted. The proposal will be assed against the relevant

policies set out in the aforementioned policy documents. Of note are policies EMP DM1 of the Arun Local Plan and Policy 6 of The Rustington Neighbourhood Development Plan which seek to ensure the retention of industrial/Commercial uses within industrial estates and business parks. The proposed change of use will be assessed against these and any other relevant policies.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Rustington Parish Council

Rustington Parish Council: No objection.

1 letter of neighbour representation (concern) has been received and is summarised as follows:

Concern has been raised with regard to the levels of available parking - very little parking available. There is currently not enough parking if they have an average of 20 people onsite at any one time plus staff parking.

Request assurances that the tenants of the gym will advise their customers not to use our spaces, keep our access way clear to avoid any disruption to my business and police the parking to avoid any conflict.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted. Parking will be discussed in detail within the Parking and Highway Safety section within the Conclusions section.

CONSULTATIONS

Environmental Health

Economic Regeneration

CONSULTATION RESPONSES RECEIVED:

Environmental Health Officer: Does not object. They note the proposed extended opening hours and recommend the imposition of noise mitigation conditions.

Business Development: Does not object:

Would rather see the unit used for industrial purposes.

There is currently a shortage of good quality, medium sized industrial premises in the area.

Note that the current use is sui generis and as such have no way of returning the unit to a B class use, other than by an application for such.

COMMENTS ON CONSULTATION RESPONSES:

- comments noted

POLICY CONTEXT

Designation applicable to site:
Within Built-up Area

DEVELOPMENT PLAN POLICES

EMPDM1	EMP DM1 Employment Land: Development Management
DDM1	D DM1 Aspects of form and design quality
SDSP2	SD SP2 Built-up Area Boundary
TSP1	T SP1 Transport and Development
EMPSP1	EMP SP1 Strategic Economic Growth
OSRDM1	Protection of open space,outdoor sport,comm& rec facilities
HWBSP1	HWB SP1 Health and Wellbeing
QEDM1	QE DM1 Noise Pollution

[Rustington Neighbourhood Plan 2014 Policy 6](#) Local Employment

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.

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.

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 following policy of the Rustington Neighbourhood Development plan applies:

Policy 6: Local Employment

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 policy in that it would not provide

sufficient parking in line with WSCC parking guidelines as set out in Policy T SP1 of the Arun Local Plan. However, following an assessment it is considered that as there are other alternative modes of transport available within the area e.g. nearby bus stops and that there are shops and other facilities in close proximity officers consider the location to be sustainable. Additionally it is considered that many users may run or walk to the proposed health and fitness centre. Thus reducing reliance on motor transport and therefore the need for off-road parking above the levels provided.

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. The key Policy considerations in the determination of this application are deemed to be SDSP2, EMP DM1, EMP SP1, HWB SP1, EOSR DM1 of the Arun Local Plan and Policy 6 of the Bersted Neighbourhood Development Plan.

The NPPF states at paragraph 80 that:"Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development"

The Councils Business Development Manager has assessed the application and acknowledges that there is a shortage of medium sized industrial units in the area. While they would rather see the unit used for industrial purposes, they acknowledge that the current unit is sui generis (dog day care) and that a change of use application would be required in order to return it to a B class use. Therefore, they acknowledge that they cannot object to this application.

Policy EMP DM1 "Employment Land: Development Management" states that:

"change of use from Business Class (B1-B8) or similar sui generis uses will not be permitted....."

Officers note that the unit was previously a B use class. However, previously granted application ref: R/257/13 sought the change to dog day care centre & boarding facility (Sui Generis). The approved dog day care centre & boarding facility was the last use of the unit. therefore Officers consider that the proposed change of use would no be a change from Business Class (B1-B8) or similar sui generis use.

Therefore the proposal would not conflict with Policy EMP DM1 of the Arun Local Plan.

NEIGHBOUR AMENITY:

The proposed change of use is for internal works to enable the property (unit 8) to be used as a gym. The only external work is the addition of an HVAC condenser unit for air-conditioning.

Officers expect that that the proposed D2 health and fitness use would lead to the creation of noise e.g. The clanking of weights and other fitness equipment along with the potential for music to be played.

The Council's Environment Health Officer has commented on this application and while they do not object to the recommendation the imposition of conditions regarding noise as follows:

1. No part of the building shall be occupied until a scheme has been submitted to and approved in writing by the Local Planning Authority for the control of noise emanating from the building(s) and associated plant and equipment. The measures included in the approved scheme shall be implemented prior to the first occupation of the building that they relate to and thereafter the measures shall be operated in accordance with the approved scheme unless otherwise agreed in writing by the Local Planning Authority.

2. No sound reproduction or amplification equipment (including public address systems, tannoy, loudspeakers, etc.) which is audible outside the site boundary shall be installed or operated on the site.

The application site is within an area featuring a large amount of B use classes (Office/Light industrial) which are likely to also produce a level of noise. The unit is sited within a terrace containing a printers (Wizzi Print) a business telecoms specialist (The Telecom Shop.co.uk) and a dental products company (Admor). As such these businesses could have ancillary office uses within them. Therefore, in order to ensure that the proposed mid terrace gym does not cause a noise nuisance to occupiers of the adjoining units Officers consider the aforementioned noise conditions are relevant and appropriate.

The nearby residential properties are located a significant distance away from the application site. Therefore, it is considered that it would not have a detrimental effect on the occupiers of adjoining residential properties.

It is not considered necessary to restrict the hours of operation since the site is located on an industrial estate and use late at night or early in the morning would be unlikely to result in an adverse impact on residential amenity.

As such it is considered that the proposal would adhere to Policy QE DM1 of the Arun Local Plan.

HIGHWAYS, TRANSPORT AND PARKING:

Concern has been raised with regard to the levels of available parking whereby, a continual influx of gym customers arriving by car is a concern as there is already a shortage of parking in the immediate vicinity and very little allocated to the unit in question. There is currently not enough parking if they have an average of 20 people on site at any one time plus staff parking. Also they own the freehold to the parking in front of their unit (part of Phoenix Terrace) and request assurances that the tenants of the gym will advise their customers not to use our spaces, keep our access way clear to avoid any disruption to my business and police the parking to avoid any conflict.

The West Sussex Parking Standards (2003) set out a requirement for gym uses of 1 parking space per 22m² of floor area. The proposed floor area is approximately 446m² (based on applicant's calculation) and the parking requirement is therefore approximately 20 off-road parking spaces would be required. The proposal has use of up to four spaces to the front. Therefore there is a shortfall of 16 spaces. However this location is within an area with nearby bus stops, and various shops. While there would be a shortfall in parking provision, this location allows people in nearby areas to walk or cycle to the gym, along with the bus stop in close proximity to the site (walking distance). Officers consider that the most use of the gym would take place before and after people have finished work, likely at times when there are less workers on the estate and therefore less cars. Additionally, Officers note that there appear to be no parking restrictions along Artex Avenue and as such many people park cars and other vehicles along it.

Officers note the above neighbour comments raising concern with regard to their units parking being

used without permission. Many of the units have parking spaces to the front and as the spaces are not enclosed currently anyone can park in them even if they are not entitled to. Officers note the concerns raised but do not consider that this can be controlled as part of this application.

A condition requiring secure cycle parking will be imposed as none has been shown on the submitted plans.

Therefore it is considered that while there is a shortfall in parking provision, the proposal is in a fairly sustainable location and, as aforementioned, can be accessed by other means rather than just by motor vehicle (car).

NEIGHBOURHOOD DEVELOPEMNT PLAN:

Policy 6: Local Employment: Proposals which would result in the loss of an existing employment or business use will be resisted, unless it can be demonstrated that the existing use is no longer viable. Proposals to expand an existing employment or business use will be supported, provided that any impact on flood risk, local amenity, traffic and landscape can be satisfactorily mitigated.

The Neighbourhood Plan states at paragraph 4.22 that Policy 6, above, seeks to protect existing employment sites, especially the Rustington Trading Estate, from an unnecessary loss to other uses and to encourage new employment development at existing sites.

Officers note that the Original B use class no longer applies to the unit and that despite the closure of the dog day care business the sui generis Use class remains. Officers consider that while Policy 6 does not mention that D2 uses would normally be permitted, it does not seek to preclude these uses within existing employment sites. Policy 6 merely aims to protect employment sites, especially the Rustington Trading Estate, from an unnecessary loss to other uses. Officers consider that the proposed health and fitness centre would provide a number of jobs in a unit that is currently empty.

Having regard to the above assesment, Officers consider that the proposal would comply with Policy 6, along with the overall aims of the Rustington Neighbourhood Development Plan.

SUMMARY:

It is considered that a grant of planning permission will bring a currently empty building back into use, securing new jobs and contributing to the vitality of the area. Additionally it is considered that the proposed change of use would not have a detrimental impact on the amenity of the occupiers of neighbouring units. As, such it is considered that the proposed change of use would comply with the relevant conditions of the Arun Local Plan and the Bested Neighbourhood Development Plan. It is therefore recommended that permission be granted subject to the following conditions

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 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

Title Plan no. SX61243

815/01

815/02

815/03

815/04

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy D DM1 of the Arun Local Plan.

- 3 Within a month of the D2 use hereby granted (gym) coming into use details of cycle parking will have been submitted to and agreed in writing by the Local Planning Authority. The cycle parking shall thereafter be retained for as long as the use hereby permitted takes place at the premises.

Reason: To ensure that adequate and satisfactory provision is made for the parking of bicycles in accordance with policies D DM1 and T DM1 of the Arun District Local Plan.

- 4 No sound reproduction or amplification equipment (including public address systems, tannoy, loudspeakers, etc. which is audible outside the site boundary shall be installed or operated on the site.

Reason: To safeguard the amenities of the occupiers of the neighbouring industrial units and residential properties in accordance with Arun Local Plan policies QE SP1 and D DM1.

- 5 Within a month of the D2 use hereby granted (gym) coming into use a scheme will have been

submitted to and approved in writing by the Local Planning Authority for the control of noise emanating from the building and associated plant and equipment. The measures approved will have been implemented within a month of the D2 use hereby granted (gym) coming into use and thereafter the measures shall be operated in accordance with the approved scheme unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities of the occupiers of the neighbouring industrial units and residential properties in accordance with Arun Local Plan policies QE SP1 and D DM1.

6 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.

7 INFORMATIVE:INFORMATIVE: The granting of this planning permission does not in any way indemnify against statutory nuisance action being taken should substantiated complaints within the remit of the Environmental Protection Act 1990 be received.

For further information please contact the Environmental Health Department on 01903 737500