

**Recommendation Report for Planning Permission**

**REF NO:** R/212/13/

**LOCATION:** 5C Churchill Court  
The Street  
Rustington

**PROPOSAL:** Retention of use of Unit 5C as a photographic studio with sales area.

**SITE AND SURROUNDINGS**

|                            |                                                                                                                                                                                                                                                                                                        |
|----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| DESCRIPTION OF APPLICATION | This application is to change the use of a gym (Class D2) to a photographic studio with associated sales area (Class A1). This application is retrospective in nature.                                                                                                                                 |
| SITE AREA                  | Approximately 120 square metres.                                                                                                                                                                                                                                                                       |
| TOPOGRAPHY                 | Predominantly flat.                                                                                                                                                                                                                                                                                    |
| TREES                      | N/A                                                                                                                                                                                                                                                                                                    |
| BOUNDARY TREATMENT         | The front boundary is defined by a footpath with adjacent pedestrianised area.                                                                                                                                                                                                                         |
| SITE CHARACTERISTICS       | A three storey building with a photography studio on the ground floor and offices above.                                                                                                                                                                                                               |
| CHARACTER OF LOCALITY      | Predominantly commercial in character, the neighbouring ground floor premises consists of cafes and shops with offices and residential above. The site is one of a number that are set back in a block from the main shopping parade in The Street. There is a car park situated close by to the west. |

**RELEVANT SITE HISTORY**

**REPRESENTATIONS**

**Representations received:**

Rustington Parish Council

No objection.

**Comments on Representations received:**

Noted.

**CONSULTATIONS**

Environmental Health

**Consultations responses received:**

Environmental Health

No comment.

**Comments on Consultation responses:**

Noted

**POLICY CONTEXT**

Designation applicable to site:  
Within the Built Up Area Boundary  
Primary Shopping Frontages

**DEVELOPMENT PLAN POLICIES**

|                           |                        |                             |
|---------------------------|------------------------|-----------------------------|
| Arun District Local Plan: | <a href="#">GEN2</a>   | Built-up Area Boundary      |
|                           | <a href="#">GEN7</a>   | The Form of New Development |
|                           | <a href="#">AREA19</a> | Primary Shopping Frontages  |

**PLANNING POLICY GUIDANCE**

|      |                                    |
|------|------------------------------------|
| NPPF | National Planning Policy Framework |
|------|------------------------------------|

**SUPPLEMENTARY POLICY GUIDANCE**

|     |                                                          |
|-----|----------------------------------------------------------|
| RDS | Rustington Design statement by Rustington Parish Council |
|-----|----------------------------------------------------------|

**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.

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. 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**

##### **PRINCIPLE**

The site is located within the built-up area where the principle of development is acceptable, subject to accordance with relevant planning policies. In this instance, the main criteria against which the application will be assessed is contained within Arun District Local Plan policy GEN7 which seeks to prevent development that would have an unacceptable adverse impact upon the character of an area and/or its residential amenities.

##### **PRIMARY SHOPPING FRONTAGES (AREA19)**

The site is located within a primary shopping area where retail uses (Class A1) are permitted in principle. However, the proposed use is not considered to fall into an A1 use but is rather a Sui Generis use. It is not an A3 or A2 use either and as such the proposal is not considered to be covered by policy AREA19 of the Arun District Local Plan.

##### **DESIGN AND VISUAL AMENITY (GEN7)**

This application seeks to change the use of the premises from a gym to a photography studio with associated sales area. The photography studio is currently in situ and so the application considers the change of use retrospectively. No physical alterations have been made to the premises in changing the use of the premises.

The photography studio with sales area is considered to be in-keeping with the surrounding commercial premises which consists of mainly cafes and shops within the same parade. The change of use is therefore considered to repond more positively to the characteristics of the area than the previous use as a gym and as such is considered to comply with policies GEN7(ii) and (iv) of the Local Plan.

It is therefore recommended that the application be approved.

#### **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 family and private 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 approved shall be carried out in accordance with the following approved plans: Location Plan & drawing number 3872-A301.

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 **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.