

Recommendation Report for Planning Permission

REF NO: WA/50/18/PL

LOCATION: 1 Orchard Crescent (Focus On Flora)
Arundel Road
Walberton
BN18 0SD

PROPOSAL: Change of use from A1 (Shops) retail to C3a (Dwellinghouses) residential.
Integrate the retail area parlour shop into family living space at rear.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	To convert the front area of the ground floor which is used as a shop into living space for the residential accommodation to the rear and on the first floor. No external alterations are proposed. Although the letter accompanying the application states that the shop is no longer viable because of the lack of passing trade and the poor residential footfall no evidence has been provided to demonstrate this is the case.
TOPOGRAPHY	Predominantly flat
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	Close boarded fencing
SITE CHARACTERISTICS	The property is the end shop in a row of 4 which is currently in use as a craft shop at the front of the ground floor with living accommodation at the rear and on the first floor currently occupied by the family of the proprietor. It is built of red brick and has a bow shop window and inset shop doorway. There is a 5 bar gate to the drive to the side with a 1.8m scalloped top close boarded fence at the front on the side boundary with the adjacent dwelling and a garden at the rear.
CHARACTER OF LOCALITY	The 4 shops are within a single building built of red brick with a hipped roof either end and gable elements at the front. The shop adjacent is currently empty. The other two shops are a metal detector supplier and a wine merchant. Orchard Crescent is short loop off the main Arundel road wide enough for cars to park on either side. There are residential properties at each end of the crescent and on both sides of Arundel Road on either side. There is a grassed area separating the shops and parking from the main Arundel Road with several trees and a red telephone box.

RELEVANT SITE HISTORY

noted

REPRESENTATIONS RECEIVED:

Walberton Parish Council

CONSULTATIONS

Economic Regeneration
 Engineering Services Manager
 Engineers (Drainage)
 Southern Water Planning

CONSULTATION RESPONSES RECEIVED:

None

COMMENTS ON CONSULTATION RESPONSES:

Comments noted

POLICY CONTEXT

Within the built up area boundary and one of a parade of 4 shops outside the defined Principal Shopping Areas.

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

GEN7	The Form of New Development
DEV30	Local and Village Centres

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

RET DM1	Retail Development
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[Walberton Neighbourhood Plan Policy 2017 HP1](#) Spatial Plan of the Parish

Walberton Neighbourhood Plan Policy 2017 HP13	Design Guidance
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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. The written Ministerial Statement of 13 December 2016 confirms that relevant policies for the supply of housing in Neighbourhood Plans should not be deemed to be out of date where all of the following circumstances arise;

- The NDP has been part of the development plan for 2 years or less or the ministerial statement is less than 2 years old
- The NDP allocates sites for housing
- The Council can demonstrate a three-year supply of deliverable housing sites

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 Walberton Neighbourhood Plan has been made and the relevant policies considered in the determination of this application.

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 not considered to comply with relevant Development Plan policies which requires that planning permission will not be granted for changes of use from retail for local shops unless reasonable attempts have been made to market the premises for continued retail use. No reasonable attempts to market the premises have been made and therefore non viability for retail use has not been proven.

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 within the built up area boundary where development is acceptable subject to compliance with other policies in the Development Plan. There are no external alterations therefore the relevant policy in the Development Plan is DEV 30 and emerging policy RET DEM1 which state that the change of use from retail is not permitted outside the main shopping centres unless lack of viability can be demonstrated. The applicant has stated that this is this case but no evidence has been submitted.

As such the proposal conflicts with policy DEV30 of the Arun District Local Plan and policy RET DEM1 of the emerging Arun Local Plan 2011-2031.

Parking

There is sufficient space on the drive to accommodate 2 cars in compliance with policy GEN 12 of the Arun District Local Plan.

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 In the absence of supporting information outlining that the retail use is no longer viable the Local Planning Authority is not satisfied that the existing retail premises would no longer serve the retail needs of the community. The proposal is therefore contrary to policy DEV30 of the Arun District Local Plan and RET DM1 of the emerging Arun District Local Plan.
- 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.