

Recommendation Report for Planning Permission

REF NO: Y/40/15/PL

LOCATION: 23/24 Orchard Business Park
North End Road
Yapton

PROPOSAL: Installation of 4 no. 1.2 x 1.2 UPVC white double glazed windows. Change of use from B1 (Business) & B8 (Storage & Distribution) to sheltered employment.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
SITE AREA	300 sq.m.
TOPOGRAPHY	Predominantly flat.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	On the southern boundary with Church Lane Nursery - approx. 2 metre bamboo screen fence erected along the boundary of the residential property. This fence is located within 10cm of the newly installed side elevation windows in the industrial unit at 23/24 Orchard Business Park screening potential views out of them.
SITE CHARACTERISTICS	Unit 23 and 24 are light industrial units used as one unit which have been converted to use for sheltered employment for people with acquired brain injuries by a charity called Rosary Cottage. To the north, the two units and the main doors of the units face Orchard Business Park parking and servicing area with neighbouring light industrial units to the west and east. There are in the region of 28 units on the business park. To the south the unit faces toward Church Lane Nursery which is now a large residential bungalow with a large garden to the front onto which the south elevation of units 23 and 24 face including the 4 UPVC windows.
CHARACTER OF LOCALITY	Orchard Business Park is light industrial estate on the site of a former nursery at the edge of the village of Yapton with open countryside to the north, west and east. The residential areas

of the village of Yapton lie beyond the southern boundary of the Orchard Business Park.

RELEVANT SITE HISTORY

Y/30/04/ - Recladding and change of use of former nursery buildings for B1 - business /B8 - storage uses.

Condition 8 - Buildings shall not be altered in any way without prior permission of the Local Planning Authority.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of the amenities of adjoining residential occupiers and the locality in general in accordance with policies DEV1 of the West Sussex Structure Plan and GEN7 of the Arun District Local Plan.

A number of other conditions related to hours of opening/access etc. which should also be applied to any future permissions on the land.

REPRESENTATIONS

Representations received:

Yapton Parish Council

No objection

2 Neighbour Objections

- Close proximity of windows to neighbours garden unacceptable.
- Security - Since the windows have been installed, persons unknown have attempted to gain access to buildings via these windows.
- Noise - Noise from the open windows causes a disturbance to residential amenity.
- Loss of privacy - windows give full and clear view to their property.
- Setting of a precedent for windows overlooking the private garden of neighbouring dwelling house (church Lane Nursery).
- The neighbour suggested that skylights should be installed to provide light and ventilation rather than windows facing onto their garden.

Comments on Representations received:

No comments received relating to the change of use of the premises.

The neighbouring residential property at Church Lane Nursery has, during the course of consideration of this planning application, erected an approx. 2 metre bamboo and timber post fence covering the 4 UPVC windows. This fence, subject to final measurement, has been erected under permitted development rights. The issues with overlooking and loss of security no longer apply as there is no view onto the neighbouring garden through the windows that were retrospectively installed. The objection on noise grounds would remain due to the opening windows. Noise is a planning issue but can also be dealt with by Environmental Health if it causes a nuisance.

CONSULTATIONS

Economic Regeneration

Consultations responses received:

Economic Regeneration:

No comment

Environmental Health:

No comment received

Comments on Consultation responses:

Noted.

POLICY CONTEXT

Designation applicable to site:

Adopted Local Plan

PD restriction

No public sewer

Drainage area

DEVELOPMENT PLAN POLICIES

[Arun District Local Plan 2003:](#) GEN3
GEN2
GEN7
GEN32

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

[Yapton neighbourhood plan 2014 Policy BB1](#)
[Yapton neighbourhood plan 2014 Policy BE1](#)

Protection of the Countryside
Built-up Area Boundary
The Form of New Development
Noise Pollution

D DM1 Aspects of Form and Design
Quality
SD SP2 Built-Up Area Boundary
EMP SP1 Employment land provision
QE DM1 Noise Pollution

Built-up Area Boundary
Protection of existing commercial premises or
land

PLANNING POLICY GUIDANCE

NPPF
NPPG

National Planning Policy Framework
National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003, and Made Neighbourhood Development Plans.

Arun District Council's Development Plans:

Paragraph 215 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.

Paragraph 216 of the NPPF confirms that weight can be given to policies in emerging plans from the day of publication. The Council resolved that the policies and maps in the Publication Version of the Local Plan be used in the determination of this planning application. Following 'publication' of the Local Plan a formal public consultation, examination and adoption process takes place.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The statement of representations procedure and statement of fact produced by the Council under regulation 19 explains that the consultation will take place on 30th October 2014 for six weeks.

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 and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan. 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: Angmering; Arundel; Barnham & Eastergate; Bersted; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; and Yapton.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

PLANNING

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 and RESIDENTIAL AMENITY considerations

1) Retrospective application for a change of use from B1/B8 Business Use to D1 Non Residential

Institution (Sheltered Employment).

The site lies outside the built up area and as such there is a presumption against development in general as stated in Policy GEN3 of the Arun District Council and Policy BB1 of the Yapton Neighbourhood Plan however it already benefits from a planning permission Y/30/04/ for use as a B1/B8 commercial development. The application will be assessed on the basis of a change of use from a former B1/B8 employment use.

There are no policies in the current local plan that seek to protect employment land from alternative development.

The application does however need to be assessed against Policy BE1 of the Yapton Neighbourhood Plan in which there is a presumption against the loss of commercial premises which provide employment or future potential employment opportunities.

The use as occurring is not a B1/B8 use but is described as 'Sheltered Employment' which in this case is within the use class D1 - non residential institution.

The current use seeks to support people with brain injuries in employment and in itself employs 5 people to run the various workspaces and assist the users plus administrators.

A comment of 'no objection' to the proposal has been received from Yapton Parish Council

It is considered that, a planning permission for the current use, with a condition restricting the use of the premises to 'Sheltered Employment' within the D1 use class, would be sufficient for the change of use to comply with policy BE1. The use provides for future employment opportunities and would not cause a loss of such employment uses to alternative uses within the D1 non residential use class which may not comply with the policy BE1.

In addition the application needs to be considered in accordance with the National Planning Policy Framework (NPPF) and with regard to the Emerging Local Plan.

The NPPF states at paragraph 18 that: "The Government is committed to securing economic growth in order to create jobs and prosperity, ...". It goes on to state at paragraph 20 that: "To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century". Paragraph 22 states that "Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose and that land allocations should be regularly reviewed". This paragraph goes on to say that: "Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities."

Policy EMP SP1 of the Emerging Local Plan seeks to safeguard employment land. At part I. it also seeks to provide vocational skills and training opportunities for local residents. The use for sheltered employment is considered to comply with this policy subject to a condition restricting change of use to alternative D1 uses.

The Councils Economic Regeneration Officers have commented that there is not a strong demand for business premises at Orchard Business Park and that as the proposal is for rehabilitation to work for people with brain injuries and the use provides 5 teaching jobs that the proposed use is considered compatible with employment uses on the site.

The current use has workshops for carpentry, arts and crafts and cookery are uses which, for commercial purposes, would fall within an appropriate light industrial use and no impacts which would adversely affect the residential amenity of the neighbouring residential property over and above the existing B1/B8 uses have been identified. The change of use is therefore considered to comply with policy GEN7 of the Arun District Council Local Plan.

On balance, in principle, it is considered that the proposed change of use is acceptable because it complies with National Policy in accordance with para. 22 of the NPPF, Local Policy in the form of BE1 of the Yapton Neighbourhood Plan, Policy EMP SP1 of the Emerging Local Plan and part v) Policy GEN7 of the Arun District Local Plan.

2) Installation of 4 UPVC windows

The principal of development is generally acceptable at this site as set out above. Condition 8 of Y/30/04/ ensures that all alteration to the existing buildings require permission from the Local Planning Authority in the interests of protecting the residential amenity of neighbouring residential occupiers.

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 adverse impact upon visual and residential amenities of the neighbouring residential occupier.

A fence (approx 2 metres in height) has been erected by the residential occupiers of Church Lane, the only affected neighbouring property. A 2 metre fence benefits from permission under permitted development regulations. A fence of 2 metres in height blocks the possible view from the unit to the residential property and it is therefore not considered that the proposal will result in any loss of privacy.

Any potential breach of security through the windows is highly unlikely to be significant now that a 2 metre fence has been erected immediately in front of all 4 windows.

With regard to concerns expressed by the neighbouring property with regard to noise nuisance given the low level training type use proposed it is not likely to result in sufficient noise generation to warrant a planning condition. Should noise issues continue to arise these could be investigated by Environmental Health. No other impacts affecting the residential amenity of neighbouring property as a result of the installation of the windows has been identified.

The principle of development of the 4 windows is considered acceptable and the windows are considered to comply with part (iv) of Policy GEN7 of the Arun District Local Plan.

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) (the right to respect for private and family life) and Article 1) (protection of property) of the First Protocol. 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 positive impacts have been identified upon those people with the following protected characteristics - disability;

Provision of sheltered employment.

RECOMMENDATION

APPROVE CONDITIONALLY

- 1 The development hereby approved shall be carried out in accordance with the following approved plans;

Block Plan - Application Y/40/15/PL, Scale 1:100, Drawn M.D.Ralph, Date 01/06/2015
South Side Elevations - Application Y/40/15/PL, Scale 1:100, Drawn M.D.Ralph, Date 02/06/2015

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 The sole means of access to serve the building shall be from the access road to North End road and the access to Church Lane shall at no time be used to serve the buildings.

Reason: To safeguard the amenities of neighbouring properties in line with policy GEN7 of the Arun District local Plan.

- 3 Notwithstanding the provisions of any Town & Country Planning General Development Order or Use Classes Order, the use hereby permitted shall be restricted to sheltered employment within D1 of the Use Classes Order only.

Reason: To enable the Local Planning Authority to consider the acceptability of alternative use, in accordance with Arun District Local Plan policy GEN7, Policy BE1 of the Yapton Neighbourhood Plan and the National Planning Policy Framework.

- 4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or enacting that Order) the buildings shall not be extended or altered in any way, nor shall any additional building or hardstanding be constructed, nor any fixed plant, machinery or other structure be erected or constructed in the grounds unless permission is granted by the Local Planning Authority on an application in that behalf.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of the amenities of adjoining residential occupiers and the locality in general in accordance with policy of the West Sussex Structure Plan and GEN7 of the Arun District Local Plan.

- 5 The use hereby permitted shall not be operated on Sundays or Public Holidays or at any time otherwise than between the hours of:
7.00am and 6.00pm on Mondays to Fridays inclusive
7.00am and 1.00pm on Saturdays.

Reason: To safeguard the amenities of neighbouring properties in accordance with policy GEN7 of the Arun District Local Plan.

- 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.