

Recommendation Report for Planning Permission

REF NO: BE/104/21/PL

LOCATION: Land Adjoining the Tesco Express
351 Chichester Road
Bognor Regis
PO21 5AN

PROPOSAL: Erection of 7 No. 2-storey dwellings consisting of 3 No. 2 bed units & 4 No. 3 bed units, access, parking, cycle storage, bin store and other associated landscape works. This site is in CIL Zone 4 & is CIL Liable as new dwellings.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Permission is sought for an erection of 7 No. 2-storey dwellings consisting of 3 No. 2 bed units (Block A) & 4 No. 3 bed units (Block B), access, parking, cycle storage, bin store and other associated landscape works. The homes would be constructed using a mixture of white silicone render and red brick slips. The main entrance to the site would be from Chichester Road along with an existing entrance to Tesco.
SITE AREA	1955.80 square metres.
RESIDENTIAL DEVELOPMENT DENSITY (NET)	36 dwellings per hectare.
TOPOGRAPHY	Predominantly flat.
TREES	There are some mature trees that would be affected by the proposed development.
BOUNDARY TREATMENT	Wooden fences formed the site's boundary with neighbouring gardens to the south, south east, and west, and a stone wall formed the site's boundary to the north, with a new wooden fence forming the boundary with the Tesco store to the south east of the site (formerly the public house).
SITE CHARACTERISTICS	The site comprises a former car park and garden area serving former Rising Sun public house. It is an irregular plot of land with access off Chichester Road.
CHARACTER OF LOCALITY	Built-up area with predominantly residential 2 storey well set back semidetached and terrace dwellings of substantial size and regularity along north-eastern side of Chichester Road and along Bedford Avenue sitting on the narrow plots with outbuildings to the rear. Considerably different pattern of development to the west of the site with well set back bungalows along Sun Park Close and 2 storey terrace with the garage compound and rather generous public area within

RELEVANT SITE HISTORY

BE/1/13/	Redevelopment of land at the former Rising Sun PH and the construction of 7no. new dwellings with associated landscaping and parking.	Withdrawn 18-02-13
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Noted.

REPRESENTATIONS

Bersted Parish Council: OBJECT for the following: -

- An overdevelopment, unneighbourly and overbearing to houses in Sun Park Close, design too modern, does not integrate with surrounding area.
- The Bersted Neighbourhood plan identified development on this site for 5 dwellings and previous planning history for this site was refused permission for 7 dwellings.
- Contrary to Bersted Neighbourhood Plan Policies ES5, HDQ1, HDQ2 and HDQ5 and Arun Local Plan Policy D DM1.
- There are concerns for highway safety with regards the access to this site being close to Tesco Express entrance.

14 letters of objection received:

- It will violate privacy, loss of light to the rear of our house. More toxic car fumes from all the cars, more noise.
- The road outside the Tesco Express with all the cars coming and going to the store, frequent deliveries by the articulated lorries, the 700-stagecoach bus arriving both ways every 15 or 20 mins.
- A new entrance on a short stretch of road will reduce visibility and triple the problem at minimum.
- 600 houses have been built up the road recently and on top of that 2000 plus purposed to be built on and behind jubilee fields.
- The infrastructure and schools and doctors cannot cope now.
- Proposed properties to rear of site are 3 storey not 2 which will have a negative impact for residents in Bedford Avenue and Sun Park Close.
- There will be lack of habitat for wildlife, hedgehogs are becoming endangered species. Felling mature trees is not good for the environment.
- This development would be another nail in the demise of the planet, small but significant. The proposed development is out of place.
- These towering three-storey buildings will overlook many properties destroying their privacy.
- The available land area is not large enough to satisfactory allow such a number of dwellings.
- The effect of an extra traffic in an already congested area should be considered.
- The factor of the effect upon the air quality within the area should be taken into account.
- Sooner or later there will be a development built upon this land, this is accepted as inevitable; is the area big enough to accommodate seven dwellings?
- We have 2500 house being built further up Chalcraft Lane which is going to add to traffic congestion.
- Block B which will have three storey will result in the loss of light and sunshine to our garden.
- The natural habitat (the pub garden) is home to so much wildlife. We are regularly visited by hedgehogs in the garden. Birds and butterflies are in abundance due to the trees and flowering plants.
- Bats have been seen. The whole area could be considered a haven for wildlife.

- The UK government itself has indicated a need for everyone to care for nature.
- The rear view of the four, 3 storey buildings in block B is not shown; this would reveal how much higher these will be than the surrounding properties and how overbearing these will be, overlooking the surrounding gardens and houses.
- Well-established trees that have been part of our neighbourhood for generations to be destroyed and the effect this will have on the wildlife in our local area.
- The houses have been shoehorned into the area, it is a contrived design and an overdevelopment of the site.
- The current situation with the effects of global warming threatening our planet, we should not be cutting down trees to make room for more houses.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted. The planning issues will be discussed in the Conclusions. With reference to concerns for highway safety, WSCC - Highways Authority did not raise any highways objection.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

DRAINAGE ENGINEERS: No extended period of groundwater monitoring has been evidenced and no infiltration testing has been undertaken in the winter period. The drainage design for the development must be based upon winter groundwater monitoring and winter infiltration testing.

WSCC Highway Authority - The LHA does not consider the proposal would result in unacceptable harm upon the highway. No objection subject to suggested conditions.

ENVIRONMENTAL HEALTH: No objection subject to suggested conditions.

NATURAL ENGLAND: No objection, subject to appropriate financial contribution and appropriate assessment in view of the European Site's conservation objectives and in accordance with the Conservation of Habitats & Species Regulations 2017 (as amended).

ARCHAEOLOGY ADVISOR: It is unlikely works associated with the proposal would impinge on archaeological deposits to the extent refusal or the requirement of other mitigation measures would be justified.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted. The Appropriate Assessment has been sent to Natural England and approved.

POLICY CONTEXT

Designation applicable to site:

Built-Up Area Boundary;
Pagham Harbour Access Management Zone B.

DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

DDM1 D DM1 Aspects of form and design quality

DDM2	D DM2 Internal space standards
DSP1	D SP1 Design
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVDM2	ENV DM2 Pagham Harbour
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
HDM1	H DM1 Housing mix
QEDM1	QE DM1 Noise Pollution
QEDM4	QE DM4 Contaminated Land
QESP1	QE SP1 Quality of the Environment
SDSP2	SD SP2 Built-up Area Boundary
TSP1	T SP1 Transport and Development
WDM1	W DM1 Water supply and quality
WDM3	W DM3 Sustainable Urban Drainage Systems
WMDM1	WM DM1 Waste Management

Bersted Neighbourhood Plan 2014 Policy ES1	Design of new development
Bersted Neighbourhood Plan 2014 Policy ES2	Surface water management
Bersted Neighbourhood Plan 2014 Policy ES6	Protection of trees
Bersted Neighbourhood Plan 2014 Policy ES8	Renewable energy
Bersted Neighbourhood Plan 2014 Policy HDQ1	Housing Site Allocations
Bersted Neighbourhood Plan 2014 Policy HDQ2	Integration of new housing
Bersted Neighbourhood Plan 2014 Policy HDQ4	Housing mix
Bersted Neighbourhood Plan 2014 Policy HDQ5	Design of new housing development
Bersted Neighbourhood Plan 2014 Policy HDQ6	Outdoor space
Bersted Neighbourhood Plan 2014 Policy HDQ7	Attention to detail
Bersted Neighbourhood Plan 2014 Policy HDQ8	Car parking

PLANNING POLICY GUIDANCE:

NPPDG	National Design Guide
NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD11	Arun Parking Standards 2020
SPD13	Arun District Design Guide (SPD) January 2021
SPD6	Archaeology

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 relevant policies of the Bersted Neighbourhood Development Plan have been taken into account in determining this application: ES1 Design of new development, ES2 Surface water management, ES6 Tree Protection, HDQ1 Housing Site Allocation, HDQ5 Design of New Housing, HDQ6 Outdoor Space, HDQ7 Attention to detail and HDQ8 Car parking.

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 in that it would affect adversely visual and residential amenities of nearby properties contrary to Policies D SP1, D DM1 and QE SP1 of the Arun Local Plan.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

KEY ISSUES

The key issues are principle, design and visual amenity, residential amenity, highways/traffic and wildlife.

PRINCIPLE

Whilst the area is suitable for residential development in principle, being in the built up area, such development should comply with the policies in the development plan. The key policies are D SP1, D DM1, D DM2, T SP1, W DM1 and EEC DM1 of the Arun Local Plan.

Policy D SP1 of the Arun Local Plan requires development to make efficient use of land reflecting the characteristics of the site and local area and policy D DM1 states that a high standard of architectural principles should be demonstrate and new development should have a minimal impact to users and occupiers of nearby properties and land. Policy D DM2 expects internal spaces to meet the requirements of Nationally Described Space Standard. Policy W DM1, Policy ECC SP2 expects all new development to be energy efficient.

NPPF paragraph 119 highlights that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.

Paragraph 124(d) NPPF states planning policies and decisions should support development that makes efficient use of land, taking into account the desirability of maintaining an area's prevailing character and setting (including residential gardens).

Paragraph 157 NPPF signifies in determining planning applications, local planning authorities should expect new development to comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable.

The Council acknowledges it cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11(d)ii of the National Planning Policy Framework is engaged. The proposal would deliver seven dwellings in a sustainable location, nevertheless, seven dwellings would make only a minimal contribution to the shortfall in housing supply.

The proposal results in significant harm to the residential amenities of immediately adjoining property in terms of overbearing and loss of outlook and would fail to reflect the characteristics of the site and local area. The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. The failure of the proposal to do this would be in direct contradiction of paragraph 124 of the NPPF and consequently the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when considered against the policies in the Framework as a whole.

DESIGN AND VISUAL AMENITY:

Policy D SP1 of the Arun Local Plan stresses that successful development should respond to local distinctive pattern of development. Paragraph 13.2.9 of the Local Plan (Design) continues insisting that new development should ensure that height and massing does not interrupt or debase the rhythm of existing building/roof line or detract from the local and wider area's character. Policy D DM1 (7) expects that all development will incorporate existing and new tree planting as an integral part of the proposal.

Policies ES1 and HDQ5 of the Bersted Neighbourhood Development Plan require new development to be of a high quality and to reflect the character of the location. Policy HDQ1 of the BNDP refers to housing site allocations and Land at the former Rising Sun PH is allocated for a minimum 5 dwellings; an application for 7 dwellings was subsequently withdrawn. The BNDP proposes that the site is suitable for 5 dwellings.

Arun Design Guide Supplementary Planning Document (SPD), a material consideration in the determination of applications, was adopted 25th January 2021. Part P.O1 deals with infill development and requires development to respond positively to the character, appearance and layout of surrounding buildings to provide high quality development which enhances amenity for surrounding and new residents.

Paragraph 130 of NPPF emphasises that planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and do not undermine the quality of life or community cohesion and resilience.

The National Design Guide comprises a material planning consideration for the purposes of decision taking. Criterion C1 requires developments to understand and relate well to the site, its local and wider context; including the existing built development, layout, form and scale. Criterion I1 requires development to respond to existing local character and identity including the characteristics of existing built form and the elements of a place or local places that make it distinctive. Criterion B2 requires

development to be of an appropriate building type and form, having regard to the height of buildings around them, the relationship with the street width, and the sense of enclosure that results.

The layout of the development fails to respect the existing pattern of development introducing two substantial terraces, each in a different part of the site of an irregular shape, positioned randomly with regards to the surrounding terraces. Block A would have a separation distance of 1m from the boundary flint wall to the north sitting too close to the road and sharing the same relationship to the street as Tesco Express does whilst ignoring the position of a row of terrace of a distinctive appearance to the north of the proposal site. Notwithstanding the satisfactory design of the terrace of three, given its position with respect to the existing street scene it would detract from it whilst creation of coherent whole is expected.

The two storey terrace of four with habitable roof space (block B) in the former pub garden would introduce an alien form of development due to its position in relation to the surrounding development, introducing the strong horizontal elements where vertical elements are predominant within surrounding buildings. New development facing with its fenestration over three storey to the rear gardens of dwellings along Bedford Avenue to the south and exposing flank wall to shallow rear gardens of two storey terrace with shallow roofs in Sun Park Close to the west and other flank wall to the rear elevation of Tesco Express would result in an awkward relationship with its surroundings.

Arun Design Guide, Page 128, requires that 'backland developments should be subservient to existing properties, and their layout should seek to maximise the outlook of neighbours and proposal should avoid over-development.' Habitable room windows should generally be at least 14 metres from the flank wall of the neighbouring property (Page 92), back to side separation min 14m (Page 71).

The proposed terrace of four sits uncomfortably in the former pub garden exposing large western flank wall a distance of 11.7m from rear elevations of 28 and 30 Sun Park Close. The applicant in their Design and Access Statement points out at required separation distances between dwellings in Arun Design Guide. Contrary to the advice in the Design Guide in their proposal show the distance of 14m from the two storey elements of the above properties, however they failed to recognise the rear elevations of their existing single storey rear extensions which would be in a distance of 11.7m whilst the Arun Design Guide suggests min 14m side - back separation distance between dwellings. The position of the dwelling in relation to the existing dwellings will be discussed below.

The development would detract from the local area's character, as explained above, the relationship of proposed development with surrounding development would be oppressive and would result in a loss of amenity. Therefore proposal would conflict with those aspects of Policies D DM1 and D SP1 of the Arun Local Plan, policies ES1 and HDQ5 of the Bersted Neighbourhood Development Plan, relevant paragraphs of NPPF, the Arun Design Guide (SPD) and the National Design Guide.

NOISE & RESIDENTIAL AMENITY:

Arun Local Plan policy D DM1 requires that the Council have regard to certain aspects when considering new development including: (3) Impact - "Have minimal impact to users and occupiers of nearby property and land. For example, by avoiding significant loss of sunlight, privacy and outlook and unacceptable noise and disturbance."

Policy QE SP1 states: "The Council requires that all development contributes positively to the quality of the environment and will ensure that development does not have a significantly negative impact upon residential amenity, the natural environment or upon leisure and recreational activities enjoyed by residents and visitors to the District."

Policy QE DM1 seeks to protect against the impacts of new noise generating development. It states that:

"Developers proposing new noise generating development must seek advice from an early stage to determine the level of noise assessment required." It also emphasises that noise sensitive development will not be permitted if its users would be affected by noise by proposed noise generating uses.

None of the Bersted NDP policies refer to residential amenity issues. One of the 'core planning principles' of the NPPF is to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience (paragraph 130 f).

It is not considered a residential use would be a noise generating form of development especially in an area of mixed use development. The residential use would have similar characteristics to other residential properties in the locality.

The Arun Design Guide stresses that habitable room windows should generally be at least 14 metres from the flank wall of the neighbouring property (Page 92), back to side separation min 14m (Page 71).

The development would have a sufficient separation distance and position towards almost all neighbouring dwellings except 28 and 30 Sun Park Close.

Back to side separation distance between block B (side elevation) and existing 28 and 30 Sun Park Close (rear elevation with habitable windows) would be 11.7m whilst habitable room windows should generally be at least 14 metres from the flank wall of the neighbouring property (page 92, the Arun Design Guide). The dwellings would expose its large windowless flank wall to the rear elevation of 28 and 30 Sun Park Close and due to its proximity it would have an adverse impact on living conditions of residents of this property resulting in an overbearing feeling of a substantial building in close proximity to their rear gardens.

With regards to the future occupiers of block B, the proposed bedrooms at third floor level would have high raised roof lights only therefore there would be no outlook from these rooms. In addition, their rear gardens would be overlooked from the first floor windows of No 26 Sun Park Close.

Local Plan policy QE DM1 emphasises that noise sensitive development will not be permitted if its users would be affected by noise by proposed noise generating uses.

'Road Traffic Noise Assessment (with regards to block A) has been submitted by the applicant and reviewed by ADC Environmental Health Officer and the report, methodology, calculations and findings were found to be reliable and therefore recommended any future permission granted it would be in accordance with the report.

The dwelling on the east side of block B would be in a close proximity of the substantial property with air conditioning units, a condenser and chiller/freezer within a screened area to the rear of the property facing to the proposal site (approved by BE/40/12). Prospective occupiers of this dwelling would be affected by the noise produced by this plant even though the applicant in their DAS states that the three bedroom terrace properties orientates away from the plant area of Tesco Express and are screened by a line of planted trees. Environmental Health do not object to the proposal on noise grounds.

The development would have an adverse impact to users and occupiers of nearby properties resulting in harm upon their neighbouring amenity by way of overbearing and by limiting their outlook and to the prospective residents of proposal property by way of overlooking from existing properties. Therefore, it would not accord with policies D DM1 and QE SP1 of the Arun Local Plan, Arun Design Guide and para 130 of the NPPF.

HIGHWAYS, TRAFFIC AND PARKING

Arun Local Plan 2011-2031 Policy T SP1 seeks to ensure development: provides safe access on to the highway network; contributes to highway improvements & promotes sustainable transport, including the use of low emission fuels, public transport improvements and the cycle, pedestrian and bridleway network.

Regard should be had to paragraph 111 of the NPPF 2021 which states that: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

The Bersted Neighbourhood Development Plan Policy GA3 states that traffic calming and shared space proposals for development which would enable or assist with traffic calming or provision of shared space features will be supported. Policy HDQ8 of the BNDP requires proposals for new development to have a minimum rate of two spaces per dwelling.

The new bell mouth access has been located to the southern boundary of the site to maximise visibility to the north. The new access is to be 5.4m wide to allow vehicles to pass clear of the public highway and a narrow footway has been shown to continue into the site from the adjoining southern footway. This footway is narrow, as an allowance has been made for the 6m requirement for reversing vehicles. This footway should be 2m however can be narrower if contrasting materials are used. The existing access in the centre of the site is to be obliterated and the footway and kerbing reinstated.

Arun District Council has adopted its own Parking Standards SPD (Jan 2020). The ADC Parking Standards for a 2-3 bedroom property in this type of location (Parking Behaviour Zone 4) requires a minimum of 2 car parking spaces on site.

The site plan shows 17 parking spaces what would satisfy the requirement of the above standard. A bin store has been provided along with a cycle store which will need to be secure and covered.

The parking allocation complies and the safety of the site comply with T SP1 of the Arun Local Plan.

INTERNAL & EXTERNAL SPACE STANDARDS:

Policy D DM2 states: "The planning authority will require internal spaces to be of an appropriate size to meet the requirements of all occupants and their changing needs. Nationally Described Space Standards will provide guidance". It is necessary to assess the proposal against internal space standards set out in the Governments Technical Housing Standards (Nationally Described Space Standard) to determine if the building is suitable for residential use.

The two storey, 2 bedroom dwelling with a Gross Internal Area (GIA) of approximately 86sqm would exceed the minimal internal space standards set out in the Technical Housing Standards Nationally Described Space Standards (2015) which is 79sqm for a 2-storey 2 bedroom home. The three storey, 3 bedroom dwelling with a Gross Internal Area (GIA) of approximately 103sqm would exceed the minimal internal space standards set out in the Technical Housing Standards Nationally Described Space Standards (2015) which is 99sqm for a 3-storey 3 bedroom 5 persons home.

Policy D DM1 refers to the need for compliance with the Arun Design Guide. This replaces policy D DM3 "External Space Standards" which was deleted at the request of the Local Plan Inspector. The Arun Design Guide stresses the design of new homes should provide clear delineation of public and private spaces; incorporating a 'public front' and private 'back' to the rear of the site, providing private gardens.

Section H.04 deals with Residential Outdoor Amenity: 'Amenity spaces should be of an appropriate size and shape to be usable and enjoyable. Private rear gardens should have a minimum depth of 10.5m.

Bersted Neighbourhood Development Plan policy HDQ6 states that a private outdoor garden amenity space of appropriate quality must be provided for all new dwellings.

Regard should be had to para 130 of the NPPF 2021 which requires development has a high standard of amenity for existing and future users.

In respect of external standards, submitted drawings show the provision of sufficient rear garden space for each dwelling which would satisfy the requirement of Arun Design Guide and comply with policies D DM1 & D DM2 and with the guidance in the NPPF (para. 130).

PROTECTION OF TREES

Policy ENV DM3 of the Local Plan in section 17.3.1 underlines the importance of trees as producers of oxygen and in urban settings groups of trees can contribute significantly to the successful integration of new dwellings into the landscape. The retention of mature trees can contribute to amenity and more attractive developments as well as retaining important wildlife habitats and should be considered at the design stage of all developments.

Policy ENV DM4 of the Local Plan emphasises where are existing trees on or adjacent to a developments site, developers shall be required to provide:

- d. Land and tree surveys
- e. A tree constraints plan
- f. An arboricultural impact assessment to include a tree protection plan and arboricultural method statement.

These ensure development is planned to take a comprehensive view of tree issues at an early stage in the design process and that development works do not have a negative impact on existing trees.

The BNDP policy ES6 points out on contribution of trees to the Parish play areas and residential properties. The removal of trees to make way for development can completely change the amenities of of a road and must be resisted.

Paragraph 131 NPPF highlights the important contribution which trees make to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that appropriate measures are in place to secure the long term maintenance of newly planted trees, and that existing trees are retained wherever possible.

The ADC Tree Officer has been consulted however no response has been received.

Arboricultural Assessment & Method Statement has been provided by applicant which states in conclusion: 'None of these trees, groups or hedge section are of sufficient importance to be worthy of influencing any layout. They are not important in the overall planning context and their loss should not influence the determination of this application. This proposal will result in the loss of several trees that are all low category because of their poor condition or small size.' And the applicant is of opinion that the proposed development would not cause an unacceptable or adverse impact, and therefore the character and appearance of the area.

It is difficult to judge the above without the comments of the ADC Tree Officer however as a result of the

proposed development all mature trees on the site are to be removed therefore would be at least adverse impact on the character, appearance of the area and the natural habitat. The applicant failed to provide 'Land and tree surveys' and 'A tree constraints plan' required by ALP policy ENV DM4 (d),(e).

Since the development would cause a loss of all trees on the site and applicant failed to provide a comprehensive view of tree issues it would not comply with policies ENV DM3 and ENV DM4 of the Arun Local Plan, policy ES6 of the Bersted Neighbourhood Development Plan and NPPF's paragraph 131.

BIODIVERSITY:

ALP policy ENV DM5 states: "Development schemes shall, in the first instance, seek to achieve a net gain in biodiversity and protect existing habitats on site. They shall also however incorporate elements of biodiversity including green walls, roofs, bat and bird boxes as well as landscape features minimising adverse impacts on existing habitats (whether designated or not)."

Government guidance states permission can only be granted if an appropriate survey has been carried out by a qualified ecologist at the time of year specified in Natural England's standing advice. Planning permission can be refused if there is not enough information to assess the effect on a protected species. ALP policy ENV DM5 is clear that where there is evidence of a protected species on a site, planning applications shall include a detailed survey of the subject species, with details of mitigation to avoid loss of the species.

The southern part of site comprises the former garden of a public house, the northern end of the site was previously used as the car park of the public house and was primarily hard standing with a hedge line along the western boundary, dominated by scrub and scattered trees. Preliminary Ecological Appraisal dated May 2021 has been submitted. This does not show harm to protected species.

The scheme fails to provide details of biodiversity net gain in biodiversity and protect the habitats on site therefore not in accordance with the ALP policy ENV DM5. However this does not result in a reason for refusal as biodiversity net gain can be conditioned.

IMPACT ON THE PAGHAM HARBOUR SPECIAL PROTECTION AREA:

ALP Policy ENV DM2 requires new residential developments within a 400m to 5km distance ('Zone B') of Pagham Harbour make a financial contribution towards the provision of accessible natural open green spaces to serve the area. A contribution of £1,275 per new residential unit was agreed by the Councils Cabinet on 20 July 2015. The Councils Cabinet subsequently approved a reduction in the tariff from £1,275 to £871 as of the 10th April 2017.

NPPF, paragraph 174 a) stresses that planning policies and decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status).

The site lies in designated Zone B and this application results in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance.

According to Natural England's advice, an appropriate assessment in view of the European Site's conservation objectives and in accordance with the Conservation of Habitats & Species Regulations 2017 (as amended), PART 6, Chapter 2 should be carried out. Therefore it should be considered whether the proposed development as a whole, notwithstanding financial measures, is likely to have a significant effect on the Pagham Harbour Special Protection Area.

The application for an erection of 7 dwellings results in recreational disturbance only to Pagham Harbour. Having considered the mitigation and avoidance measures to be provided in-perpetuity through the contribution to the Joint Pagham mitigation scheme, Arun District Council conclude that with mitigation the plan or project will not have an Adverse Effect on the Integrity of the European protected site(s).

The Appropriate Assessment has been sent to Natural England and they state that all mitigation measures are appropriately secured in any planning permission given.

On the basis of a net gain of 7 units, the applicant has agreed to the £6,097 contribution and this is secured by the agreed Section 106 agreement. There is no conflict with policy ENV DM2 of the Arun Local Plan.

CONCLUSION

The development fails to respect the surrounding character and appearance of the area, would detract from the rhythm of an existing pattern of development and would appear visually intrusive in an established street-scene. The proposal results in significant harm to residential amenities of nearby properties and prospective residents of the proposed therefore the adverse impact of the proposal would significantly and demonstrably outweigh the benefits when considered against the policies in the Framework as a whole. The development is considered to conflict with the development plan, particularly policies D SP1, D DM1 and QE SP1 of the Arun Local Plan, Arun Design Guide and relevant paragraphs of NPPF and consequently is recommended for refusal.

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.

SECTION 106 DETAILS

The decision would be granted with a S106 legal agreement relating to a contribution of £6,097 towards the cost of delivering measures to avoid or mitigate to an acceptable level, the harm caused to Pagham Harbour by the Development.

CIL DETAILS

This application is CIL Liabe therefore developer contributions towards infrastructure will be required (dependant on any exemptions or relief that may apply)

RECOMMENDATION**REFUSE**

- 1 Having regard to the proximity and relationship of block B to neighbouring residential properties to the west, the proposal creates unacceptable living conditions for the occupants of adjoining properties 28 and 30 Sun Park Close through overbearing, limiting their outlook and overshadowing and for the prospective occupants of proposed property through overlooking their rear garden from the first floor of 26 Sun Park Close, in conflict with policies D DM1, and QE SP1 of the Arun Local Plan, Arun Design Guide and relevant paragraphs of the National Planning Policy Framework
- 2 The development fails to respect the surrounding character and appearance of the area, would detract from the existing pattern of development. The proposal results in an unduly cramped and unneighbourly form of development which would be detrimental to the character and amenities of the surrounding residential area, contrary to policies D SP1, D DM1 of the Arun Local Plan and relevant paragraphs of the NPPF.
- 3 **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.