

Recommendation Report for Outline Consent

REF NO:	BE/143/25/OUT
LOCATION:	Land East of Heath Place Bersted PO22 9SL
PROPOSAL:	Outline application with details of access, landscaping, layout, and scale (appearance is reserved) for the erection of a 3-storey building comprising of under-croft car parking and bicycle store, 2 No. floors of 4 No. self-contained flats on each (8 No flats in total) with pedestrian access formed onto Ash Grove.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application is in outline but only appearance is reserved at this time (although elevation plans have still been submitted). The proposal is for a three-storey building comprising under-croft car parking and bicycle storage with two floors of flats above. The building would appear as two storeys from Ash Grove but due to the levels change, three storeys from within the industrial site. Eight parking spaces are proposed.
SITE AREA	1,000 square metres.
RESIDENTIAL DEVELOPMENT DENSITY	80 dwellings per hectare.
TOPOGRAPHY	The site slopes from west to east, dropping by around a metre from Ash Grove to the level of the internal site road.
TREES	A Tree Preservation Order (TPO/BE/1/22) protects the following on-site trees: <ul style="list-style-type: none"> - 19 x Pedunculate Oak and 1 X Hawthorn on the car park frontage (western side). - 17 x Pedunculate Oak on the southern side of Heath Place; and - 4 x Pedunculate Oak on the eastern side of the car park. <p>The building is shown positioned within an open area between these trees and does not affect any of the TPO trees.</p>
BOUNDARY TREATMENT	All boundaries are currently hedged up to around 2m in height.
SITE CHARACTERISTICS	The site forms the frontage of a large modern commercial/industrial building known as Tradewinds Business Centre which provides serviced office suites, showrooms, and other workspaces. The building is three storeys and is part occupied at present. The site comprises of landscaping (grass) between the internal access road and the frontage with Ash Grove. There are trees to the north and south and then a hedge running along the western boundary.

CHARACTER OF LOCALITY

Part of an established industrial estate comprising industrial units and commercial offices. There is residential development opposite on the west side of Ash Grove, and this includes some three storey buildings with parking on the ground floor.

RELEVANT SITE HISTORY

BE/51/23/OUT	Outline application with all matters reserved except access for use of site for housing (Re-submission of withdrawn application BE/147/22/OUT).	Refused 06-07-23
BE/147/22/OUT	Outline application with all matters reserved, except access, for the erection of up to 20 No dwellings.	Withdrawn 20-03-23

BE/147/22/OUT sought outline permission with an access off the existing road into the Tradewinds Centre (from Heath Place). The application specified up to 20 dwellings. Several concerns were raised in respect of flood risk, highway safety, harm to the viability of the employment use and noise. The refusal reasons were raised with the applicant, and they withdrew the application.

BE/51/23/OUT was then submitted with the key difference being it did not specify the number of dwellings. It was refused in July 2023 for reasons relating to flood risk, highway safety, and the absence of a signed s106 agreement.

REPRESENTATIONS

Bersted Parish Council object as the parking provision does not comply with policy and in particular, no visitor parking spaces are provided.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted.

CONSULTATIONS**CONSULTATION RESPONSES RECEIVED:**

ENVIRONMENT AGENCY - state objection as the submitted Flood Risk Assessment (FRA) does not take the impacts of climate change into account or consider how people will be kept safe from the identified flood hazards. State that the proposed flood risk mitigation measures for the lifetime of the development are inadequate because they will not make the development resistant to the flood levels for the 0.5% AEP (2115) tidal design flood event. Consequently, the specified internal raised floor levels are inadequate. Floor levels should be set at least 600mm above the estimated flood level and if this is not possible then extra flood resistance and resilience measures will be required and these must protect the property to at least 600mm above the estimated flood level.

WSCC HIGHWAYS - state no objection subject to a condition to secure details of construction plant/materials storage. Advise no concerns with the access proposals, the sustainability of the site or

the anticipated trip rates. WSCC note that the parking provision is short of the requirements but advise no objections should overspill parking be accommodated elsewhere within the Tradewinds site.

ADC ENVIRONMENTAL HEALTH - state no objection subject to a condition to secure electric vehicle charge points.

ADC LANDSCAPE - state no objection subject to agreement of landscaping at the reserved matters stage. As this is a small, flatted development under 9 units, there would be no requirement or trigger for the provision of (or contribution towards) Public Open Space or Play. States further detail re the landscaping proposed would need to be submitted for approval in plan form detailing species, quantities, planting densities, and size at time of planting.

ADC ECOLOGIST - state no objection but advises that the proposed landscaping will provide limited ecological value. Inclusion of a mixed native hedge should be considered as well as native shrub planting and inclusion of ecological features such as swift bricks and bat boxes.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted except as discussed below:

ENVIRONMENT AGENCY - the applicant wrote to state the site is not affected by the 1 in 200 (2115) flood extent as shown on the diagram in the EA response. However, the EA responded that the site is indeed affected by the 1 in 200 (2115) flood extent and therefore, their objection stands.

ADC LANDSCAPE - landscaping is a matter to be determined at this time and so it would not be appropriate to assess it at the reserved matters stage. It is noted that the landscaping plans do include details of species and the no. of plants/shrubs etc to be planted.

POLICY CONTEXT

Designations applicable to site:

- Within the Built Up Area Boundary (BUAB).
- Low potential for Groundwater Flooding.
- Part Flood Zones 2 and 3.
- Predicted to be entirely Flood Zone 3 by 2111.
- At risk of surface water flooding (1:100 + 1:1000 probability).
- Tree Protection Order ref TPO/BE/1/22; and
- CIL Zone 4.

DEVELOPMENT PLAN POLICIES

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

DSP1	D SP1 Design
DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
ECCSP1	ECC SP1 Adapting to Climate Change
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
HDM1	H DM1 Housing mix

QEDM1	QE DM1 Noise Pollution
QESP1	QE SP1 Quality of the Environment
SDSP2	SD SP2 Built-up Area Boundary
TSP1	T SP1 Transport and Development
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems
WMDM1	WM DM1 Waste Management

Bersted Neighbourhood Plan 2014 Policy ES6	Protection of trees
Bersted Neighbourhood Plan 2014 Policy HDQ2	Integration of new housing
Bersted Neighbourhood Plan 2014 Policy HDQ3	Windfall sites
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

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan 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.

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 conflicts with relevant Development Plan policies in that the site lies within Flood Zone 3a and the Flood Risk Assessment does not demonstrate that the development will be safe for its lifetime without increasing risk elsewhere. The application also fails to satisfy the exceptions test.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that

- (2) in dealing with an application for planning permission the authority shall have regard to -
- (a) the provisions of the development plan, so far as material to the application,
 - (aza) a post examination draft neighbourhood development plan, so far as material to the application,
 - (b) any local finance considerations, so far as material to the application, and
 - (c) any other material considerations.

OTHER MATERIAL CONSIDERATIONS

There are no other material considerations to be weighed in the balance with the Development Plan.

BIODIVERSITY NET GAIN

This application is liable for Biodiversity Net Gain (BNG). The proposal will result in a loss of 0.08 Habitat Units (-67.83%) and the gain of 0.02 Hedgerow Units (+48.89%). As such, the applicant will need to purchase or provide 0.09 units elsewhere.

CONCLUSIONS

PRINCIPLE:

The site is in the built-up area boundary (BUAB) in the Arun Local Plan (ALP) but not in any other policy designations in the ALP or the Bersted Neighbourhood Development Plan (BNDP). Development in this location is acceptable in principle in accordance with ALP policy SD SP2 provided it accords with other policies of the ALP Local Plan covering such issues as flood risk, drainage, biodiversity, trees, design, highway safety/parking, residential amenity, and pollution.

BNDP policy HDQ3 allows for small residential developments on infill and redevelopment sites in the Parish area. The proposal at only 8 dwellings is not a major application therefore is small scale. ALP policy SD SP1 "Sustainable Development" states the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

As the site lies in the BUAB, by association, it is an inherently sustainable location for development and ensures easy access to jobs and services required for day-to-day living thus potentially also supporting the local economy. The development would provide residential accommodation to meet the current Housing Land Supply (HLS) shortfall (3.23-years).

The proposal meets the economic, social, and environmental aspects of sustainable development and the presumption in favour of sustainable development would normally be engaged. However, the NPPF is clear that this does not apply where other policy (including relating to flooding) provides a strong reason for refusing the development proposed.

IMPACT ON EMPLOYMENT LAND:

ALP policy EMP DM1 states existing employment sites will be protected where there remains a reasonable prospect of employment use. Change of use will not be permitted unless the site is no longer required and that no other employment uses wish to relocate there. BNDP policy EE2 states that the redevelopment or change of use of land or buildings in employment use will not be permitted unless the existing use can be shown to be no longer viable. However, whilst technically the site is part of an existing employment site, it is also entirely an area of grassed landscaping and therefore its loss will have no adverse impact on the viability of the employment use.

The proposed parking provision is well short of the Council's requirements (8 spaces proposed versus 18 required). It is not stated in the application whether there is potential for any overspill to be accommodated with the existing car parking on the site. However, if this were to happen then the impact would only be minor and the owner of the Tradewinds site (also the applicant) could utilise permitted development rights to provide additional parking spaces elsewhere on the site. On this basis, there is no conflict with the relevant policies.

ACCESS AND PARKING:

ALP policy T SP1 seeks to ensure development provides safe access on to the highway network; contributes to highway improvements (where appropriate) and promotes sustainable transport. Schemes should accommodate efficient delivery of goods and supplies; give priority to pedestrian and cycle movements, be accessed by high quality public transport facilities, create safe and secure layouts for traffic, cyclists and pedestrians and provide appropriate levels of parking.

WSSC Highways have assessed the application, and they raise no concerns with the access, with trip generation or with public safety. The access arrangements are as existing and there are no issues with its layout or its operation. On this basis, it is determined that there is no conflict with the relevant policies.

The Council's Parking Standards SPD states one or two bed flats in this location require 2 spaces each. In addition, visitor parking should be provided at a rate of 20% of the number of dwellings. BNDP Policy HDQ8 states the minimum parking rate will be 2 spaces per dwelling unless alternative and accessible car parking arrangements can be made which do not add to on-street congestion.

Therefore, the parking requirement per ADC's standards is 18 spaces (including 1.6 visitor spaces, rounded up). This number is two greater than the requirement per BNDP policy HDQ8. The proposal only includes one allocated space per dwelling resulting a total of 8. Therefore, the proposal falls far short of the requirements. However, it is noted that WSSC raise no concerns with parking from a safety point of view. Whilst they suggest that overspill could be accommodated within the site (which would be subject to agreement from the site owners), it is also noted that there are no parking restrictions on Ash Grove. Therefore, cars could also park on the road whether in the layby parking areas opposite/to the south of the site, or indeed on the road itself.

There is nothing to suggest that parking on Ash Grove would result in a safety issue and it would also not result in any harm to residential amenity given the dwellings on the opposite side have their own parking provision elsewhere. The site is also highly sustainable, and it may not be necessary to own a car to access facilities, services, or employment opportunities. The scheme also includes cycle storage within the undercroft area.

On this basis, notwithstanding the objection from the Parish Council, it is not recommended that the proposal be refused for reason of insufficient parking provision.

LAYOUT AND SCALE:

The application seeks approval of layout and scale but not appearance. ALP policies D SP1 and D DM1 require development make the best possible use of land by reflecting or improving on the character of the site/surrounding area. The Arun Design Guide (ADG) generally requires development to respond to the distinctiveness & characteristics of its surroundings in terms of scale, massing, and materials. New development must ensure the existing character and sense of place of an area is respected and enhanced. This can allow for new design forms but only where these take cues from well-designed elements of the area.

ALP policy D DM1 requires there be minimal impact to users and occupiers of nearby property and land whilst QE SP1 requires development contribute positively to the quality of the environment and ensure development does not have a significantly negative impact on residential amenity. BNDP policies HDQ2 and HDQ5 also relate to design/character.

Section G of the ADG suggests a density of 60-100 dwellings per hectare (dph) in urban locations but that the density should be appropriate to the location, balancing the need for efficient use of land with a design that responds to and enhances existing character. The proposed density at 80dph is within this range.

The development would result in a visual change to the character of Ash Grove, but this is acceptable given the presence of residential development opposite, the protected trees which will soften the development in views from the south and north and the fact that the residential building will help to screen views of the less attractive employment building beyond. The three-storey height is acceptable as there are some three storey dwellings of a similar design (parking on ground floor) that are side on to Ash Grove to the north of the site. Also relevant is the fact that the building will not appear as three storeys from Ash Grove and the height will only be readily apparent in views of the flanks and from within the site itself.

The site layout is acceptable as it makes efficient use of the site area whilst accommodating the parking and other requirements. The proposed layout does not include any communal amenity space for the flats which is contrary to the advice in the ADG, but each flat will be provided with a balcony (as shown on the floorplans) providing each flat with private defensible space. There is less of a need for communal space when private space is included.

As there are no other properties on this side of Ash Grove and as Ash Grove is a wide highway, the flats (and their respective balconies) all comply with the ADG guidance on interface distances. As per ALP policy D DM2, 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 buildings will be suitable for future residential occupiers.

The floorplans can be considered at this time as they relate to matters of layout. Measurements have been taken of the floor area of the bedrooms, and these have been used to determine that the scheme includes 2 No. 2 bedroom, 3 person flats and 6 No. 1 bedroom 1 person flats. On this basis, all of the proposed internal floor areas accord with the standards. The floorplans of each house have been cross referenced with the Standards and the minimum gross internal floor areas of the houses (market and affordable) clearly meet the standards.

There are therefore no conflicts with the relevant planning policies.

TREES AND LANDSCAPING:

ALP policy D DM1 requires developments to incorporate new tree planting and to improve upon character through landscaping. ALP policy ENV DM4 states TPO protected trees, Ancient Woodland, those in a Conservation Area or trees that contribute to local amenity shall not be damaged or felled unless the development meets the certain criteria including that the benefits outweigh the loss of trees or woodland. BNDP policy ES6 also seeks to protect important trees.

The application includes an Arboricultural Impact Assessment, Arboricultural Method Statement and Tree Protection Plan. The submitted report states that a development here is achievable without any tree pruning or felling and that there will be no long-term impacts on the protected trees. Tree protective barriers are proposed to be installed prior to construction. No ground works are required within Root

Protection Areas. The Council's Tree Officer has not provided any advice and given the lack of any clear impact, it must be concluded that there will be no harm and no conflict with the relevant policy.

The application is accompanied by a landscaping plan which details new planting and hard surfacing. The scheme proposes to plant a privet hedge along the Ash Grove frontage and a mix of plant species within two areas between the front of the building and the road. The landscaping scheme is sufficiently detailed however it is noted that the Council's Ecologist has stated that it provides limited ecological value, the shrubs are non-native and the hedge is Privet. Notwithstanding that landscaping has been applied for, it would still be appropriate to not approve the plan and instead require details of landscaping to be resolved at a later date by discharge of condition.

Provided conditions are imposed relating to tree protection and landscaping then there will be no conflict with the relevant planning policies.

BIODIVERSITY:

ALP policy ENV DM5 states development schemes shall seek to achieve a net gain in biodiversity and protect habitats on site. Where there is evidence of a protected species on a development site, planning applications shall include a detailed survey of the subject species, with details of measures to be incorporated into the development scheme to avoid loss of the species.

The planning statement sets out that an ecological assessment has been submitted. The submission does include a Biodiversity Net Gain (BNG) Metric, a Habitat Management Monitoring Plan, and a Site Condition Assessment but the Ecological Assessment is not present. However, the site is a small parcel of grass in an urban area with likely low wildlife value and the council's ecologist has not raised any concerns or commented on the lack of an assessment. Conditions will be required to secure wildlife mitigation proposals such as swift bricks and bat boxes. There is therefore no conflict with policy ENV DM5.

In respect of BNG, the scheme will result in a loss of 0.08 habitat units and the gain of 0.02 hedgerow units. As such, the applicant will need to purchase or provide 0.09 units elsewhere. These aspects can be agreed separately through the discharge of the required Gain Plan condition.

FLOOD RISK:

The site is shown to be affected by Flood Zones 2 and 3 along the length of its secondary frontage with the internal site road. This extends partially (and unevenly) into the site itself. The Ash Grove frontage is higher and so is excluded from this designation. This same area is at risk of surface water flooding. A greater part of the site is predicted to be within Zone 3 by 2061 with all of the site affected by 2111 (per the Council's Strategic FRA) or 2115 (per the EA's separate data).

ALP policy W DM2 requires that proposals in areas at risk of flooding meet the sequential and exceptions tests, provide sustainability benefits to the wider community, demonstrate that the development will be safe for its lifetime and do not increase flood risk elsewhere.

National planning practice guidance (NPPG) states that new permanent dwellings are classed as 'more vulnerable' and should only be allowed within FZ3a where the Exception Test (ET) is passed. There is a separate requirement to carry out a Sequential Assessment. The purpose of the Sequential Test (ST) is to ensure land use planning takes due regard of flood risks and to ensure that areas at low or no risk of flooding are developed in preference to areas at higher risk.

The previous application was partly refused due to there being no information to enable the assessment

of the sequential and exceptions tests. This new application includes a ST that takes account of informal pre-application advice given by the Local Planning Authority (LPA) in November 2024. The ST analyses 411 other sites within the Greater Bognor Regis urban area (i.e. including Pagham, Aldwick, Bognor Regis, Bersted, Felpham and Middleton-on-Sea) and determines that there is no reasonable available land suitable for the proposed development, and as such it should be deemed that the preferred location for the development is within the site. This is a comprehensive ST and meets the policy requirements. This aspect is therefore accepted.

The Exception Test (ET) requires (1) that development that has to be in a flood risk area will provide wider sustainability benefits to the community that outweigh flood risk, and (2) that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

Government guidance on wider sustainability benefits indicates that these must be genuine benefits to the wider community and go beyond the benefits or policy requirements of a planning application. The guidance suggests the following examples:

- the re-use of suitable brownfield land as part of a local regeneration scheme.
- an overall reduction in flood risk to the wider community through the provision of, or financial contribution to, flood risk management infrastructure; or
- the provision of multifunctional Sustainable Drainage Systems that integrate with green infrastructure, significantly exceeding NPPF policy requirements for Sustainable Drainage Systems.

The submitted FRA states that demonstrating wider sustainability benefits is deemed to be outside the scope of the document. This is understood; however, no other part of the planning submission includes any commentary on these benefits therefore the submission does not satisfy the first part of the ET requirement.

The FRA does include provisions to make occupants safe (to be achieved by siting all accommodation at first & second floors above flood levels). However, it is clear from the response of the EA that the FRA has not taken account of the site's location within the 0.5% AEP (2115) tidal design flood event mapping. The FRA does not fully satisfy part 2 of the ET in that it has not been demonstrated that it will be safe for its lifetime. Due to the failure to satisfy the ET, the proposal as a whole is contrary to ALP policy W DM2 and with national policy guidance.

SURFACE WATER DRAINAGE:

ALP policy W DM3 states all development must identify opportunities to incorporate a range of Sustainable Urban Drainage Systems (SuDS) as appropriate to the size of development. BNDP policy ES2 states surface water management measures will be required to ensure that the risk of flooding both on-site and downstream is not significantly increased. The new "National Standards for Sustainable Drainage Systems" (NSfS) were published in July 2025.

The FRA states surface water will be discharged to the existing highway sewer on Ash Grove. This is the 4th option in the SuDS hierarchy, and it is necessary to demonstrate with evidence why the other preferred options are not suitable before settling on an option further down the list. The FRA states that infiltration will not be possible due to ground conditions however there is no information provided to evidence this.

The Council's website makes it clear that groundwater levels should be fully evaluated before determining the extent that infiltration can be used on a site. Arun is located on the coastal plain, is typically low lying, and the superficial deposits generally consist of silty clays which are poorly drained. A

high-water table is common in the district, whether this is perched groundwater, the aquifer, or springs.

There are checklists on the website to advise developers on what to submit with applications. In this case, the outline application checklist makes it clear that full details of the runoff destination need to be provided including evidence of agreement to drain to a surface water sewer. In addition, it is necessary to provide a drainage scheme in order to ensure there is space within the site for drainage alongside all of the other proposals/policy requirements. The submission includes a drainage plan but there is no evidence of agreement to drain to the existing surface water sewer.

However, the application has to be determined by a certain date and the Council's Drainage Engineers have not provided any comments by that date. In the absence of any objection, it would not be sustainable to refuse the application with respect to surface water drainage. Therefore, the proposal has to be determined to be in accordance with the relevant policies. Should engineers provide subsequent comments which raise objection then these will be provided separately and the applicant will need to ensure these are considered when a resubmission (or appeal) is made.

FOUL DRAINAGE:

ALP Policy W DM1 states proposals must demonstrate that where they will materially increase foul water discharges, adequate drainage capacity exists or can be provided as part of the development. Southern Water (SW) were not consulted on this application however there is a public sewer within the highway to the west of the site, and it is noted that SW did not object to the 20 dwellings proposed by BE/51/23/OUT.

HOMES FOR OLDER PEOPLE:

BNDP policy HDQ4 requires that a proportion of the housing proposed meets Lifetime Homes standards, so homes are suitable for households whose needs change. The lifetime homes standard has since been replaced by the M4(2) standard in the Building Regulations. The Policy does not specify what the proportion should be but as no M4(2) housing is specifically proposed, there is conflict with the policy.

However, it is material that Arun DC has an agreed internal policy on the provision of housing accommodation to provide for an ageing generation ("Accommodation for Older People and People with Disabilities", 2020) - and that this document states there is no requirement for schemes of less than 10 dwellings. Given this position, it would not be sustainable to refuse the application on the basis of no provision for lifetime homes.

NOISE POLLUTION:

Policy QE DM1 states noise sensitive development will not be permitted where high levels of noise will continue throughout the night or (d) there is a likelihood of complaints about noise from industrial development. The council's environmental health officer has assessed the application but does not comment on the potential for noise from the industrial site. This is not thought to be an error as the Tradewinds Business site is predominantly occupied by serviced office suites, showrooms, and other workspaces. It is not an inherently noisy use. As such, there is no conflict with ALP policy QE DM1.

WASTE MANAGEMENT:

ALP policy WM DM1 is relevant but, in this case, there are no issues with refuse vehicles accessing the site from Ash Grove, and the site can be serviced in a similar way to how the Business Centre is serviced. The floor plans show bin stores within the undercroft parking area, and this will enable kerbside collection. The development accords with ALP policy WM DM1.

CLIMATE CHANGE:

ALP policies ECC SP1 and ECC SP2 require all new residential and commercial development be energy efficient, designed to adapt to impacts arising from climate change, and incorporate decentralised, renewable, and low carbon energy supply systems. The application states the building will be constructed to the required building regulations, which are more stringent now in terms of energy efficient buildings than when the ALP was adopted in 2018. The building has also been orientated to face west and thus maximise solar gain.

The application also states that solar panels will be attached to the roof. As appearance is a reserved matter, a condition will be required to either secure the submission of the solar panel details together with the reserved matters application or to require it to be separately approved. Subject to such a condition, there will be no policy conflict.

SUMMARY:

The NPPF presumption in favour of sustainable development states where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date (including for applications involving the provision of housing where a 5-year HLS cannot be demonstrated), planning permission should be granted unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places, and providing affordable homes, individually or in combination.

This outline application seeks agreement for almost all of the relevant matters of a residential development on an existing landscaped area of an existing employment use. The only matter to be left to a reserved matters application would be appearance. The site lies in the BUAB, and this report demonstrates that the proposal may be capable of officer support but that at present the scheme is in conflict with national & local flood risk policy in that it does not demonstrate that both parts of the exceptions tests have been passed.

Whilst it may be possible to resolve the conflict with additional information, this issue currently represents a strong reason for refusing the proposal per part (i) of the NPPF presumption and so it is recommended that permission be refused for the following reason.

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.

CIL DETAILS

There is no CIL requirement for flatted developments in this part of the district.

RECOMMENDATION

REFUSE

- 1 The site is in Flood Zone 3a and the submitted Flood Risk Assessment does not demonstrate that the development will be safe for its lifetime without increasing risk elsewhere. Whilst the proposal does site pass the sequential assessment, no information has been put forward as to how the proposal passes the exceptions test. There is no certainty that the scheme will ensure future occupants are safe from flooding or that the development will not increase risk to surrounding residential properties. The application is therefore in conflict with Arun Local Plan Policy W DM2, the NPPF and the associated NPPG on Flood Risk and Coastal Change.
- 2 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm, which has been clearly identified within the reason(s) for the refusal, approval has not been possible.