

Recommendation Report for Planning Permission

REF NO: BE/44/25/PL

LOCATION: Land adjacent to 21 Greencourt Drive
Bersted
PO21 5EU

PROPOSAL: 2 x No. 2 bedroom detached bungalows with associated car parking and bin and bike stores (resubmission following BE/70/24/PL). This application is in CIL Zone 4 and is CIL Liable as new dwellings.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	This application seeks permission for 2 No. 2-bed detached bungalows with associated car parking and bin and bike storage.	
SITE AREA	784m ²	
SITE CHARACTERISTICS	Vacant scrubland, previously used as residential garden.	
CHARACTER OF LOCALITY	Residential.	

RELEVANT SITE HISTORY

BE/70/24/PL	2 No 2-bed detached bungalows with associated car parking and bin and bike storage. This application is in CIL Zone 4 and is CIL Liable as new dwellings.	Withdrawn 25-10-24
BE/38/18/RES	Approval of reserved matters following outline consent BE/138/16/OUT for 2 No. dwellings	ApproveConditionally 10-10-18
BE/56/18/DOC	Approval of details reserved by condition imposed under BE/138/16/OUT relating to condition 5-surface water drainage.	DOC Approved 07-06-18
BE/138/16/OUT	Outline application with all matters reserved for 2 No. dwellings.	Refused 02-12-16 Appeal: Allowed+Conditions 11-07-17
BE/63/16/OUT	Outline application with all matters reserved for 1No. detached 2 storey dwelling	ApproveConditionally 10-06-16

Relevant history noted. Outline and reserved matters have been approved under BE/138/16/OUT and BE/38/18/RES for 2 No. dwellings (single storey detached bungalows). BE/70/24/PL sought the same proposal, but was withdrawn due to a lack of drainage information.

REPRESENTATIONS

Bersted Parish Council - No objection.

14 No. letters of objection from nearby occupiers. General concerns regarding:

- Overcrowding / over-development.
- Impact to parking and traffic in the area.
- Impact on neighbouring privacy / overlooking.
- Harmful to residential amenity.
- Out of keeping.
- Increased flood/surface water risks.
- Concerns over public safety / dangers to children.
- Land should be given back to residents as garden.
- Additional pollution and impact on air quality.
- Impact to property value.
- Potential impact to drains.
- Drainage testing is not a true reflection of normal water levels due to the dry winter.
- Harmful to the environment of the street and surrounding area.
- Restricted access for emergency services.
- Noise pollution.
- Little benefit to the Bersted economy and housing supply.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted. Only material planning matters can be considered; issues regarding property value are not able to be taken into account.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

ADC ECOLOGY / BIODIVERSITY NET GAIN:

No objection, subject to conditions.

ADC ENVIRONMENTAL HEALTH:

No objection, subject to conditions.

ADC DRAINAGE ENGINEERS:

Objection.

The applicant has undertaken ground investigations, which has revealed that groundwater levels peak 1.4m below ground level. This effectively rules out infiltration as an option due to the need to provide one metre freeboard between the bases of any infiltration devices and peak groundwater level. On this site it is not practical to achieve such a shallow (ie. 400mm depth) infiltration system.

The proposal is to discharge to the public surface water sewer at the junction of Greencourt Drive and South Way, at a restricted rate. Unfortunately, the discharge rate exceeds what we would expect for this

development and will need to be reduced. This fact, together with other comments listed within the consultation need to be addressed at this stage, to ensure that we can adequately assess if flood risk will be increased by the development. Currently this application does not accord with the NPPF.

Sustained Objection received 05/11/25:

Evidence of Permission in Principle from Southern Water; location of a manhole at junction of Greencourt Drive and South Way; evidence of confirmation as to whether a Water Company or WSCC will adopt / agree to pipework and manholes in the highway; and calculations and hydraulic modelling all remain unresolved.

Further information is required so to adequately assess if flood risk will be increased by the proposed development. As a result, this application does not accord with the NPPF.

NATURAL ENGLAND:

Securing appropriate mitigation (through S106).

WSCC HIGHWAYS:

No objection, subject to conditions regarding car parking spaces and cycle parking.

SOUTHERN WATER:

Information provided for note by the applicant.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted. Requested conditions would have been applied below were permission being granted.

POLICY CONTEXT

Built Up Area Boundary

Prone to groundwater flooding (>=50%<75%)

Pagham Harbour Zone B

2km Buffer for Site of Special Scientific Interest

CIL Charging Zone 4

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
ENVDM5	ENV DM5 Development and biodiversity
ENVSP1	ENV SP1 Natural Environment
QEDM1	QE DM1 Noise Pollution
QEDM2	QE DM2 Light pollution
QESP1	QE SP1 Quality of the Environment
SDSP1	SD SP1 Sustainable Development
SDSP2	SD SP2 Built-up Area Boundary
TDM1	T DM1 Sustainable Travel and Public Rights of Way

TSP1	T SP1 Transport and Development
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems
WMDM1	WM DM1 Waste Management
WSP1	W SP1 Water

Bersted Neighbourhood Plan 2014 Policy ES1	Design of new development
Bersted Neighbourhood Plan 2014 Policy ES2	Surface water management
Bersted Neighbourhood Plan 2014 Policy HDQ2	Integration of new housing
Bersted Neighbourhood Plan 2014 Policy HDQ3	Windfall sites
Bersted Neighbourhood Plan 2014 Policy HDQ5	Design of new housing development
Bersted Neighbourhood Plan 2014 Policy HDQ6	Outdoor space
Bersted Neighbourhood Plan 2014 Policy HDQ8	Car parking

PLANNING POLICY GUIDANCE:

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 is considered to conflict with relevant Development Plan policies in that insufficient information has been provided to confirm and ensure that the surface water can be adequately drained without increasing flood risk elsewhere and a s106 has not been secured for Pagham Harbour mitigation.

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) and the following is a summary of the key points:

- Net loss of -10.46%
- Off-site units to be secured via condition to provide 10% Net Gain.

CONCLUSIONS**BACKGROUND**

An outline application for 2 No. dwellings (BE/138/16/OUT) was refused at Planning Committee in 2016; the proposal being determined as an overdevelopment of the site, and out of character with the street scene. This was subsequently allowed at appeal, and a reserved matters application was approved following this in 2018 (BE/38/18/RES).

BE/138/16/OUT was approved conditionally, with a condition requiring details of surface water drainage design. This condition was approved and discharged in 2018 under BE/56/18/DOC.

BE/70/24/PL was submitted, proposing the same development previously approved. However, during the lifetime of the application, it was identified by the ADC Drainage Engineers that, due to the 6 year period since the discharge of the drainage condition, the information submitted for this condition was out of date. As such, new testing and design would need to be undertaken, to accord with updated policy, legislation and regulations. Due to the omission of this information at the application stage, BE/70/24/PL was withdrawn.

PRINCIPLE

The site is in the Built-up Area Boundary (BUAB) as set out in Arun Local Plan (ALP). The proposal is acceptable in principle subject to compliance with other policy considerations.

The NPPF (paragraph 129) supports the effective and efficient use of land for sites in the built-up area but advises new development should maintain an area's prevailing character and setting (including residential gardens) and secure well-designed, attractive, and healthy places.

As the council cannot demonstrate a 5-year HLS, para 11(d) of the NPPF and the application of the 'presumption' for sustainable development would be triggered.

This 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 the NPPF that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or (ii) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

Part (i) does not apply to this determination as the site does not lie in a protected area or impact on an

asset of importance to a degree that provides a strong reason for refusal. The part (ii) test will be applied at the end of this report.

DESIGN AND VISUAL AMENITY

ALP policy D DM1 requires the Council seek to make the best possible use of land by reflecting or improving upon the character of the site and the surrounding area. It requires the Council to consider scale, massing, aspect, siting, layout, density, building materials, landscaping, and design features.

Bersted Neighbourhood Plan (BNDP) Policy ES1 states that new development which would have an effect on the appearance or character of the surrounding area should be of a high quality design and should contribute to local character by creating a sense of place appropriate to its location.

The dwellings are both single storey dwellings of brick and tile construction with hipped roofs and uPVC windows and doors. A materials and finishes condition, requiring further details of the materials to be used, would have been attached below to ensure the material palette is consistent with that which dominates the locality, i.e. red facing brickwork and clay tiles, were the permission being granted. The elevations of the dwellings are relatively simple, but they remain acceptable in terms of visual amenity.

The single storey nature of these units is in conflict with the prevailing character of the immediate locality, though it is of note that there is a large cluster of bungalows along South Way to the southeast. Part P of the Arun Design Guide stats that backland developments should be subservient to existing properties, and their layout should seek to maximise the outlook of neighbours. Whilst bungalows are not typical of the immediate context, the use of such dwellings helps to minimise harmful impacts on the residential amenities of surrounding properties, whilst making efficient use of a backland site that in this case, has historically, been in a state of disrepair. The type of properties proposed are in accordance with the principles of this relevant section of the Arun Design Guide. They would also not have any particular presence within the wider street scene, and so their contrasting scale and design would not be prominent within the locality, and only experienced by those either seeking the dwellings out, or from the private areas of immediate neighbours.

The proposed dwellings would not unduly compromise the established pattern of development within the area, and would represent an acceptable form of backland development with respects to design and visual amenities. Only from an aerial viewpoint would their incongruence with the pattern of development and composition of the area be clearly visible. As such, this does not warrant a reason for refusal.

Were permission being granted, and appropriate control of materials was subsequently secured through a condition, the proposals would be in compliance with ALP policies D SP1 and D DM1, and BNDP policy ES1.

NEIGHBOURING RESIDENTIAL AMENITY

ALP policy QE SP1 states that: "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".

ALP policy D DM1 includes criteria that development should have a 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.

In respect of meeting the requirements of technical guidance, Part H of the Arun Design Guide (ADG) (Page 128) states that separation distances between habitable rooms should be a minimum of 21m for

back to back elevations, and 14m for back to side elevations. In this case, plot one would comprise a side to back relationship between No.18 and No.20 Nor'bren Avenue, which would be a minimum distance of 25.9m. This exceeds the minimum required 14m. Plot two would comprise a back to back relationship with Nos 12, 14 and 16 Nor'bren Avenue, with a minimum distance of 29.3m. This exceeds the 21m minimum requirement. These separation distances will preserve residential amenity in line with the standards set by the ADG, and will not result in the proposed dwellings creating unacceptable overbearing, overshadowing or overlooking impacts on neighbouring properties to the north.

To the contrary, it is noted that the distance between plot one and Nos 21 and 23 Greencourt Drive will be a minimum of 9.2m; falling short of the required 14m. In addition, the distance between Nos 17 and 19 and plot two will be a minimum of 8.6m. This is a front to rear elevation interrelationship; of which the ADG does not advise minimum distances. Whilst these are close distances, the nature of the development and the potential harm must be considered. The proposed dwellings are single storey, measuring 4.5m in height with hipped roofs. They are situated a minimum of 0.98m from rear boundaries; comprising 1.8m high close boarded timber fencing. Being located to the north, and low in height, the dwellings would not create unacceptable overshadowing of the rear elevations of properties to the south, nor their rear amenity space. In addition, they pose no risk of overlooking, given the only opening to the southern elevation is a front access door to plot two. There are no proposed habitable windows facing to the south.

As such, the remaining potential harm to the southern occupiers is the overbearing impact on their amenity from the close proximity of the proposed dwellings. Being hipped roof bungalows, the rear boundaries of Greencourt Drive will be abutted by a 2.6m high eave, which will then rise gradually to a ridge height of 4.5m. This ridgeline will be situated no closer to the southern boundary line than 3.8m, for plot two, and 4.2m for plot one. For context, were this residential curtilage of an existing dwelling, an outbuilding could be built up to 4m in height no less than 2m distance away from these boundaries, under permitted development rights. The scale of harm from overbearing of these single storey dwellings would subsequently not be of a detrimental level to warrant refusal on the grounds of overbearing. The nature and scale of the proposed dwellings would alter the outlook of the rear boundary from these properties, but this would not be significant enough to have unacceptable harm on privacy or amenity, nor the quality of the environment. Conversely, the harm posed from the existing properties would actually be greater to future occupiers of the proposal, given those occupying Nos 17 to 23 Greencourt Drive are two storey, and would have visibility of the private garden amenity spaces of the proposed bungalows. This impact to the amenity of future occupiers does not warrant refusal however, given prospective occupiers of the bungalows would be aware of this overlooking prior to purchase of either property.

Due to the height, scale, and siting of the dwellings, whilst they would represent a visual change and new addition to the outlook of neighbouring properties, they would have no significantly adverse overbearing or overshadowing impacts on any neighbouring residential properties. Also by virtue of being single storey, all new viewpoints would be restricted by surrounding boundary treatment, or look out over the shared driveway. There would be no significantly adverse impacts by way of overlooking on any neighbouring properties.

Proposed parking bay No. 4 immediately abuts the rear site boundary of No. 21 Greencourt Drive, so it can be expected that there would be some intermittent disturbance by way of vehicular activity at the boundary when switching on or off engines, and occasional idling. This sort of activity can be expected at any given residential parking space. Whilst this would increase potential nuisance, it is to the rear end of the garden, it would be intermittent and infrequent disturbance, and an almost identical arrangement was approved at appeal under an outline planning permission application on this site. The harms are not such that they would warrant a refusal.

The proposal is in accordance with ALP policies QE SP1 and D DM1.

SPACE STANDARDS

Policy D DM2 of the Arun Local Plan requires internal spaces to be an appropriate size to meet the requirements of all occupants and their changing needs. Section J.08 of the ADC Design Guide SPD re-iterates the need to comply with the national internal space standards.

The measurements for each dwelling shows the bedroom sizes to provide each property with one single bedroom (being under 11.5m²), and one double. This would allow sufficient space for up to 3 occupiers. The NDSS requires that for 2 bed, 3 person properties of a single storey, the GIA must be at minimum 61m². Plot 1 provides approximately 80m² of GIA, and Plot 2 provides around 76m². This therefore exceeds the minimum NDSS requirement, and is in accord with ALP policy D DM2.

The ADG includes guidance and criteria on several relevant matters including distances between dwellings, gardens, defensible space, and sunlight & daylight levels. Paragraph H.04 of the Arun Design Guide SPD advises that outdoor amenity spaces should be of an appropriate size and shape and be usable and enjoyable. It states rear gardens should have a minimum depth of 10.5m and buildings should be set back by 2m from the plot boundary to mark defensible space.

Neither dwelling provides deep rear amenity space; plot 1 measuring 6.5m deep, and plot 2 measuring predominantly 8.3m deep, and extending in part to 12m deep. Whilst this does not wholly meet the 10.5m depth requirement of the ADG, the widths of these gardens do exceed 10.5m, and provide a sufficient area of private amenity space. Regard must also be given for the previous application, which sought a very similar proposal, within which the private amenity space for each dwelling was resolved to be acceptable. As such, whilst not wholly compliant with the ADG, which have been adopted following the previous decision, the scale of external amenity space is sufficient. Refusal on the grounds of insufficient depth would subsequently be unreasonable. Inspectors decisions on recent appeals within the District have also re-enforced pragmatism with garden depths, stating that smaller houses in particular do not necessarily require as large gardens.

The proposal is in accordance with ALP policy D DM2 and the Arun Design Guide.

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 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)."

Biodiversity Net Gain for small sites became a requirement on the 2 April 2024 and requires developments to provide 10% BNG. The site is subject to this requirement; with the proposals currently proposing 10.46% loss of onsite habitat, which currently comprises sealed surface, modified grassland and bramble scrub. It is understood that the 10% BNG will be delivered off-site. The application has been assessed by our Ecology Officer, who has raised no objection to the works, subject to a Biodiversity Gain Plan condition and a Biodiversity Enhancement Layout condition to include recommendations set out in the PEA. The plan condition requires the submission of a Biodiversity Gain Plan, which would secure how the off-site units are to be provided; either through the purchase of credits, or delivery on another site. Whilst a draft plan would be preferred, it is not necessary for determination of this application, and sufficient information has been provided to demonstrate that the 10% will need to be secured off-site.

In respect of the enhancement layout condition, the PEA recommends the installation of hedgehog access

holes, a stag beetle hotel, bird boxes, and planting of local native species. These recommendations have been secured within the condition below.

Were this permission being approved, the delivery of the ecological enhancement would have been secured through the biodiversity enhancement layout condition, and as such would meet the requirements of ALP policy ENV DM5.

HIGHWAYS, PARKING AND ACCESS

Arun Local Plan Policy T SP1 seeks to ensure that 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.

Arun District Council adopted a Parking Standards SPD (Jan 2020). Principle 1 2.12 stresses that parking provision should be sufficient to accommodate demand whilst exploiting the potential for sustainable travel, minimizing adverse effects on road safety, and avoiding increased on-street parking demand. Principle 2.13 advises: 'If parking could reasonably be expected to take place in existing streets, then it will be necessary to demonstrate through a parking capacity survey that there is sufficient capacity to accommodate the expected parking demand.'

The proposal is for 2 No. 2-bedroom units within Parking Zone 2. Thus, the dwellings are required to benefit from 2 No. car parking spaces and 1 No. cycle parking space each. The proposals benefit from sufficient parking provisions in accordance with the parking standards, and would not result in adverse harm to highway amenity and parking provision within the area. It is noted that the widened access would result in some loss of space for on-site parking to the front of No.19. However, it would still be possible for 2 cars to be parked to the front of the property, and as such there would not be a significant impact to the on-street parking provision along Greencourt Drive.

WSCC Highways were consulted and no highways safety concerns have been raised. There are no transport grounds to resist this proposal.

It is a requirement of the Arun Parking Standards that EV charging points be provided for new dwellings. This has been re-enforced through the request of a condition from ADC Environmental Health requiring the installation of these points prior to occupation.

The proposal is compliant with ALP policies T SP1 and T DM1. Were permission being approved, relevant conditions would have been attached to secure the car and cycle parking provisions, and installation of EV charging.

DRAINAGE AND FLOOD RISK

Policy W DM2 of the ALP requires that all development must demonstrate that it will not result in unacceptable drainage implications.

Policy W DM3 requires that all development identifies opportunities to incorporate a range of Sustainable Urban Drainage Systems (SUDS), appropriate to the size of development, at an early stage of the design process.

Policy ES2 of the BNDP concerns surface water management, and requires that new development should aim to reduce the overall level of flood risk in the area.

The proposal is in Flood Zone 1, and is not subject to any flood risk which would have adverse impact to

lives and property. It is however necessary for surface water drainage disposal to be sufficiently addressed at application stage, to ensure compliance with ALP policy W DM2 and W DM3; and demonstrate that the site can be sustainably drained without undue impact to the drainage network or implications to flood risk of the surrounding area.

The application has been supported by a Drainage Strategy Technical Note. This includes winter groundwater monitoring, winter infiltration testing, and consideration of the SUDS hierarchy and natural catchment design. The data supplied evidences that infiltration on site is ruled out, as groundwater levels peak at 1.4m, and the required 1m freeboard cannot be achieved. The drainage scheme subsequently seeks to discharge surface water to the Public Surface Water sewer at the junction of Greencourt Drive and South Way, around 95m from the entrance of the site, at a restricted rate.

This strategy has been reviewed and assessed by the ADC Drainage Engineers, and they object to the scheme. This is due to a number of issues (some which require minor amendment), but of which there are two major issues. A second consultation has been undertaken following receipt of further information, however the original objection is sustained:

- There will be a considerable length of 'offsite' pipework and associated manhole/s. Confirmation is required as to whether these assets are to be adopted by a Water Company. Evidence of agreement in principle from the Water Company will be required. It is unlikely, that West Sussex County Council (WSCC), as Highway Authority will permit an unadopted arrangement in the public highway and therefore it is important to establish its future status. If adoption is not sought, then confirmation will be required from WSCC that the principle of the arrangement is acceptable to them.
- Insufficient information has been provided in respect of hydraulic calculations and modelling. Further data and modelling is required.

Evidence of permission in principle from Southern Water is also required in respect of the proposed connection of the surface water to the Public Surface Water; and an issue regarding the location of an existing manhole between Greencourt Drive and South Way remains unresolved.

As such, whilst a potentially feasible solution has been proposed by the applicant, further evidence is required to demonstrate that this strategy is possible of implementation, and would not have unacceptable implications to flood risk elsewhere. This needs to demonstrate that permission will be granted by Southern Water and the Highways Authority (WSCC) for the pipework arrangement, and confirm who this pipework will be adopted by once installed. This is to avoid permission being granted for the development, and then the drainage strategy being found to be unviable as the relevant authorities refuse to grant permission for the connections and pipework arrangements within the highway; or it is found that the strategy cannot be implemented without resulting in flood risk elsewhere. Alternate solutions would therefore need to be explored, which may not meet the requirements of adopted legislation and policy. This could render the permission subsequently unimplementable.

It is necessary for planning permission to only be granted where adequate assessment has been undertaken to ensure that flood risk will not be increased by the proposed development, and a sustainable drainage solution can be bought forward. Reliance on conditions to resolve outstanding matters is not appropriate in this instance, as there are a number of factors which may result in the condition becoming non-dischargeable. This results in the scheme creating uncertainty that the development could go ahead without increasing flood risk elsewhere, in direct conflict with ALP policy W DM2 and W DM3, BNDP policy ES2 and the NPPF.

SUSTAINABLE CONSTRUCTION

ALP policy ECC SP2 requires residential development be energy efficient and incorporate decentralised, renewable, and low carbon energy supply systems.

The Design and Access statement advises that the development will comply with the Council's current sustainability and ecological requirements. This is to be achieved by installing renewable energy where possible and adopting low carbon measures during and after the construction phase. Energy ratings will also comply with current building regulation requirements, and measures will be in place to re-use existing materials.

Were permission being granted, a condition would be applied below to ensure compliance with ECC SP2, by securing the provision of final details of all the measures undertaken meet this policy.

ACCESS MANAGEMENT CONTRIBUTION

ALP policy ENV DM2 requires residential developments in 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 £962 per net new unit is required. This will be secured through a Section 106 legal agreement.

In this instance, the proposal will see the creation of two new units; and a financial contribution of £1924 is required. This is proposed to be paid to the council on or before commencement of the development.

This contribution has been secured through the signing and completion of a S106 Agreement. This covenants the Owner to pay £1924 to the Council on or before the date of commencement. As this contribution has not been secured, the proposal is in accordance with ALP policy ENV DM2.

SUMMARY

The site is located within the Built Up Area Boundary. Therefore whilst the principle of development is acceptable under 'the presumption in favour of sustainable development', Part 11 of the NPPF, this application is subject to the tilted balance under Part 11(d)(ii), where the benefits of approving permission must outweigh the harm. It is acknowledged that the Council cannot currently demonstrate a Five-Year Housing Land Supply (HLS) and weight should therefore be afforded to the fact that the proposed development would make a contribution to the Council's identified housing need. In this case, the development would provide two additional residential units, which would be of very minor benefit. In addition, the proposal would make efficient use of previously developed land within the built-up area (para 124 of the NPPF). Other benefits include new homes, jobs during construction, and its future occupiers' likely support for local shops and services.

These benefits are limited, and subsequently, the adverse impacts of approving the development would significantly and demonstrably outweigh the benefits of the scheme.

Insufficient evidence has been provided within the application to conclude that there is a suitable drainage method for the disposal of surface water from the development. As a result, the proposal has not adequately demonstrated that the development could be implemented without increasing flood risk elsewhere, and therefore fails to comply with ALP policy W DM2 and W DM3, BNDP policy ES2, and the NPPF. This constitutes a strong reason for refusal, as the potential impacts to flood risk in the area are currently unknown, and may result in unacceptable harm to life and property from flooding.

As a result of this conflict with the Arun Local Plan, Bersted Neighbourhood Development Plan, Arun Design Guide and subsequently the NPPF, the application 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

A S106 accompanies this application, and requires the undertaker to pay £1924 for the purpose of delivering mitigatory actions at Pagham Harbour on or before the Commencement Date.

CIL DETAILS

This application is CIL liable, therefore, developer contributions towards infrastructure will be required (dependent on any exemptions or relief that may apply).

RECOMMENDATION

APPROVE CONDITIONALLY

- 1 Insufficient evidence has been provided to demonstrate that the proposed surface water drainage scheme for the site is acceptable and would not increase flood risk elsewhere. This is in conflict with Arun Local Plan policy W DM2 and W DM3, Bersted Neighbourhood Plan policy ES2, and the NPPF.
- 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 for the refusal, approval has not been possible.