

Recommendation Report for Outline Consent

REF NO: BR/124/21/OUT

LOCATION: To rear of 94 - 100 Hook Lane
Bognor Regis
PO22 8AT

PROPOSAL: Outline application with all matters reserved except for access for demolition of existing bungalow to form new access and residential development of up to 6 No. chalet houses. This application affects the setting of the Upper Bognor Road & Mead Lane Conservation area.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The proposal seeks outline planning permission for the erection of up to 6 dwellings. Access is proposed through the demolition of the existing no. 94 Hook Lane and the site area includes the plot of no.94 and parts of the rear gardens of nos. 96, 98 and 100 Hook Lane. All matters are reserved with the exception of access, which is to be determined as part of the outline application. The access will be 4.8m wide with a shared surface.
SITE AREA	0.29 hectares
RESIDENTIAL DEVELOPMENT DENSITY	Up to 17.4 dwellings per hectare.
TOPOGRAPHY	Predominantly flat
TREES	There are mature trees on the southern and eastern boundaries of the application site. Within the application site are a number of specimens within existing rear gardens but these are not of any significance.
BOUNDARY TREATMENT	The rear boundary to the University of Chichester is a mature landscape boundary. To the east, the University are developing an extended campus away from the historical parts of the campus and this is also a mature landscape boundary. To the west is a typical residential rear garden boundary of fencing and low level planting.
SITE CHARACTERISTICS	Residential gardens.
CHARACTER OF LOCALITY	The area is characterised by detached one and a half storey dwellings in a relatively uniform alignment. University of Chichester at Bognor Regis to the south and east. Nos 96-100 Hook Lane all have windows in their roofs facing the site.

RELEVANT SITE HISTORY

BR/48/21/PD Prior notification under Schedule 2, Part 1, Class AA for No Object'n + Conds

an additional storey on existing detached dwelling.

23-04-21

BR/139/18/OUT	Outline application with some matters reserved for the demolition of 1 No. existing dwelling to form access for 6 No. residential dwellings. This application affects the setting of listed buildings & affects the character & appearance of the Upper Bognor Road & Mead Lane Conservation Area.	ApproveConditionally 15-11-18
---------------	--	----------------------------------

Outline planning permission was previously granted by BR/139/18/OUT under delegated powers but this has time expired. It is also noted the owner of 100 Hook Lane has been granted prior approval under permitted development rights to turn their bungalow into a two storey dwelling.

REPRESENTATIONS

Bognor Regis Town Council object on the grounds that this is overdevelopment as a result of the layout and density. In addition, that this proposal will result in a further loss of wildlife habitat beyond that already lost through the University development to the east. The proposal will also result in visual impacts.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted however, the applicant has agreed to amend the description to state up to 6 chalet houses therefore allowing for a proper consideration of layout and density at the reserved matters stage. Wildlife issues are considered within the report. It is not considered that there will be any adverse visual harm to the streetscene.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

ENVIRONMENT AGENCY - state that they are aware that the applicant is amending their Flood Risk Assessment (FRA) to take account of up to date climate change allowances and they will therefore respond when the revised FRA is submitted.

WSCC HIGHWAYS - no objection with the following comments:

- The access is shown on drawing no: 2.01 rev P4 as being 4.8m wide which will allow two standard cars to pass and is acceptable for this level of development;
- A turning head is shown on the site plan and it is assumed that refuse collection will take place from within the site;
- Tracking will therefore be required at Reserved Matters stage to demonstrate that a refuse vehicle can enter, turn on site and exit the access safely in forward gear;
- There is currently one parking space outside the property which will be lost with the installation of the proposed access;
- There are double yellow lines on the opposite side of the road to stop parking occurring, so it's not expected that parking will restrict access movements to or from the site.

WSSC DRAINAGE - no objection (recommend no conditions) with the following comments:

- Current surface water mapping shows that the proposed site is at moderate risk from surface water flooding;
- This risk is based on modelled data only;
- Any existing surface water flow paths across the site should be maintained and mitigation measures proposed for areas at high risk;
- The area of the proposed development is shown to be at high risk from groundwater flooding based on current mapping but again this risk is based on modelled data only;
- Watercourse along the southern boundary; and
- No records of historic surface water flooding within the confines of the proposed site.

ADC DRAINAGE ENGINEERS - no objection (subject to standard conditions) and make the following comments:

- This site is entirely located within Flood Zone 3, in an area of moderate risk of surface water flooding (within the 1 in 100 year event flood water extent) and in an area formerly managed by the Internal Drainage Board due to the sensitive nature of the drainage in the area;
- Are aware of historic flooding in Hook Lane (June 2012);
- An exception test is required to determine if development is appropriate in this area;
- All of these factors make it challenging to design a sustainable surface water drainage system for the site;
- The applicant will need to demonstrate that their proposed solution does not lead to an increased risk of flooding to either the development itself or other existing properties;
- The proposed discharge to a surface water sewer may well be acceptable but evidence that infiltration is not viable should be provided along with a full winter's groundwater monitoring;
- Discharge rates should also be restricted to 2l/s;
- There is a sewer running along the southern boundary;
- Flood Risk compensation must be agreed with the Environment Agency;
- Would normally object but does not on basis that no objection was raised previously on BR/139/18/OUT and no change in circumstances.

ADC ENVIRONMENTAL HEALTH - no objection but recommend conditions relating to electric vehicle charging points, heat pumps, contamination and construction hours.

ADC CONSERVATION OFFICER - States that the proposal will not cause harm to the significance of the heritage assets or their setting and therefore should be determined in accordance with the relevant development plan policies and the contents of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended). Comments as follows:

- The application site is located adjacent to the Bognor Regis (Upper Bognor Road and Mead Lane) Conservation area which consists of an important and imposing set of principally late 18th Century buildings fronting Upper Bognor Road contrasted with the historic character of Mead Lane;
- There are also a number of listed buildings in the local area, including those on the university campus;
- The heritage assets are considered to be of architectural and historical significance.
- The boundary between the site and the university campus forms the boundary of the conservation area and consists of fencing & a number of attractive mature trees, which should be retained as part of any proposal;
- This would ensure that any development is screened from the neighbouring conservation area and associated listed buildings;
- The closest university buildings to the site are modern in nature, and have a neutral impact upon the character of the area. The presence of these prevent views of other, more important buildings on the

site;

- However, the design of the buildings, along with the materials used should be carefully considered, and appropriate for their neighbouring heritage assets.

ADC TREE OFFICER - No response.

COMMENTS ON CONSULTATION RESPONSES:

Noted.

POLICY CONTEXT

Designations applicable to the Site:

Within the Built Up Area Boundary;

CIL Zone 4;

Flood Zone 3a (high risk);

Within 2km Buffer of Felpham and Bognor Regis SSSI's; and

Adjacent to Upper Bognor Road & Mead Lane Conservation Area.

DEVELOPMENT PLAN POLICIES

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

DDM1	D DM1 Aspects of form and design quality
DSP1	D SP1 Design
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
HERSP1	HER SP1 The Historic Environment
HERDM3	HER DM3 Conservation Areas
HWBSP1	HWB SP1 Health and Wellbeing
QESP1	QE SP1 Quality of the Environment
SDSP2	SD SP2 Built-up Area Boundary
TELDM1	TEL DM1 Telecommunications
TSP1	T SP1 Transport and Development
WSP1	W SP1 Water
WDM1	W DM1 Water supply and quality
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems

PLANNING POLICY GUIDANCE:

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

SUPPLEMENTARY POLICY GUIDANCE:

SPD2	Conservation Areas
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.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area.

There are no relevant Bognor Regis Neighbourhood Development Plan policies.

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 would not cause demonstrable harm to the character of the area, would not result in any harm to the adjoining Conservation Area and would not have an adverse impact on highway safety but conflicts with development plan policies regarding flooding in that the sequential and exceptions tests have not been satisfied.

The site adjoins a Conservation Area but section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 Act is only relevant to proposals which are within Conservation Areas therefore it is not necessary to consider this.

OTHER MATERIAL CONSIDERATIONS

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

CONCLUSIONS

PRINCIPLE:

The site lies within the built up area boundary where development is acceptable in principle in accordance with policy SD SP2 of the Arun Local Plan (ALP) and provided it is in accordance with other policies of the Local Plan covering such issues as heritage assets, flood risk & drainage, highway safety and infrastructure.

ALP policies D DM1 and D SP1 seek to ensure that new developments make an efficient use of land

whilst also preserving or improving upon local character. The Arun Design Guide states that density should be appropriate to location, balancing the need for efficient use of land with a design that responds to and enhances the existing character of the site or wider locality. In general, higher densities will be appropriate in town and village centres, along strategic routes, and around key movement intersections with good access to public transport and facilities.

Layout is a reserved matter and as the applicant has agreed to a description that states "up to 6 ..", there is no need to ensure at this time that 6 dwellings can be accommodated within the site whilst meeting all other policies. Instead, these considerations will be undertaken on a future reserved matters application.

Nevertheless, the indicative layout is considered to represent an acceptable density having regard to the mix and size of dwellings shown, the presence of garages, parking & circulation areas and the large gardens. Furthermore, the existing trees to the boundaries are well away from the position of the houses and therefore it should be possible to retain these.

The density of the scheme is similar to that of other properties along Hook Lane and the proposal therefore complies with policies D DM1 and D SP1 of the Arun Local Plan 2011-2031. Furthermore, the NPPF generally seeks to promoting effective use of all land (para 117) and gives weight to proposals that develop under-utilised land (para 118d). The site density would also accord with the advice on density in the Arun Design Guide.

HERITAGE:

The southern boundary of the site shares a border with the adjacent Conservation Area which covers most of the University of Chichester, Bognor Regis Campus (excluding the more recent University development to the east & south east of the application site). The University site also contains a number of listed buildings.

Arun Local Plan (ALP) policy HER SP1 states that development likely to prejudice heritage assets including Non-Designated Heritage Assets and their settings will be refused. Policy HER DM3 lists criteria for proposals affecting the setting of a Conservation Area and those relevant are:

- (a) New buildings and structures should acknowledge the character of their special environment in their layout, form, scale, detailing, use of materials, enclosure and the spaces created between buildings; and
- (f) It does not harm important views into, out of or within the Conservation Area.

The National Planning Policy Framework (NPPF) sets out several steps that must be followed when considering impact on heritage assets. Para 189 requires applicants to describe the significance of heritage assets affected, including any contribution made by their setting. Para 190 then requires Local Planning Authorities to identify and assess the particular significance of the heritage asset that is affected by a proposal. The Local Planning Authority must then consider the level of harm associated with the proposal and decide there is no harm, 'less than substantial harm' or 'substantial harm'. It is then necessary to counterbalance harm with the level of public benefits associated with the proposal (as set out in paras 193-196).

The applicants have not provided any statement to describe the significance of the Conservation Area as per the requirements of para 189. However, the Councils Conservation Areas SPG document describes the significance as deriving from the numerous designated and non-designated heritage assets within the site area. These are either along the Upper Bognor Road frontage or centrally sited but with more modern college buildings to the north which do not complement the heritage assets.

The boundary between the site and the university campus consist of fencing and a number of attractive

mature trees which are shown on the illustrative plans to be retained. The closest university buildings to the site are modern in nature, and the Conservation Officer states that these have a neutral impact upon the character of the area. The presence of these existing buildings also prevents views of other, more important buildings within the Conservation Area. This therefore limits any harm to the older heritage assets within the Conservation Area which define its significance as a whole.

The Conservation Officer states that the proposal would not cause harm to the significance of the heritage assets/their setting and therefore it is not necessary to assess the proposal against any public benefits. Instead, it is necessary to assess the proposal against the relevant Local Plan policies.

The proposal is compliant in principle with these as it will not affect the setting of nearby heritage assets or harm important views in/out of the Conservation Area. Compliance with part (a) of policy HER DM3 will be considered at Reserved Matters stage when appearance and materials are known. There is also no conflict with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 Act.

FLOOD RISK & DRAINAGE:

The site lies wholly within Flood Zone 3a. ALP policy W DM2 and national flood risk policy requires that proposals in such areas meet the sequential and exceptions tests, provide sustainability benefits to the wider community, demonstrate that the development will be safe and does not increase flood risk elsewhere.

The national planning practice guidance states that residential development in Flood Zone 3a is acceptable provided that the sequential and exceptions test are met. The purpose of the sequential test is to ensure that 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 submitted Flood Risk Assessment (FRA) states that the sequential test has been met but does not provide any assessment of whether any lower risk sites have been considered. The sequential test has therefore not been met.

It is acknowledged that a sequential test is not required if one was carried out previously for the same site/development but despite the approval of BR/139/18/OUT, it is clear that no sequential assessment was provided or carried out on that application.

It is only necessary to consider the exceptions test if the sequential test is accepted (which it has not been). However, for the sake of completeness, it is noted that the exceptions test requires (1) that the proposal will provide wider sustainability benefits to the community (using the criteria set out within the ALP Sustainability Appraisal Framework or other relevant policies) that outweigh the flood risk; and (2) that it will be safe for its lifetime without increasing flood risk elsewhere and where possible reduce flood risk overall.

Regarding part (1), the submitted FRA states that this should be considered by the Local Planning Authority on the basis of the supporting information presented in the planning application. However, the planning application includes no information as to the wider sustainability benefits and it is not appropriate to simply rely on the benefits of up to 6 new dwellings as such benefits will be small scale and may not actually assist the local community. The applicant has stated that a Design & Access Statement was prepared but was not submitted. However, this has been reviewed informally and does not contain any information in relation to satisfying the exceptions test.

In respect of part (2) of the exceptions test, the application is accompanied by a FRA which proposes mitigation in the form of:

- Raising the buildings above 1.93m AOD;

- The dwelling will therefore be built on piers with void space underneath;
- Finished floor levels of the buildings will be elevated above the design flood level to accommodate freeboard (0.3m) and the floor construction (0.2m), i.e. finished floor levels of 2.43m AOD;
- Backup power and clean water will be provided in each building;
- Surface water will be discharged to either the ditch on the eastern boundary or the surface water sewer at the southern site boundary; and
- Permeable paving will be applied to all road and parking areas to act as flood storage.

This FRA is dated July 2018 and is the same document as was provided with BR/139/18/OUT. The applicant has advised that it needs to be updated to reflect the Environment Agency's latest climate change allowances. This should have been identified and resolved prior to submission. It is therefore difficult to completely trust the document and also there are no Environment Agency comments as they have stated that they will not respond until the FRA has been revised. As such, it is not possible to provide a view as to whether the proposal will be safe for its lifetime without increasing flood risk elsewhere.

The proposal is therefore in conflict with ALP policy W DM2 and the national planning guidance on flooding in that the sequential and exceptions test have not been met and the FRA is not sufficient.

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.

ADC Engineers have assessed the proposals and conclude that whilst the site is challenging, it is likely that an appropriate surface water drainage strategy can be provided by way of a planning condition to show a maximum allowable discharge of 2l/s to the surface water sewer. They conclude that this rate can reasonably be achieved without unacceptable risks of blockage. However, soakaways must still be investigated for surface water disposal.

There is at no present no conflict with policy W DM3 and the drainage details would be agreed through the discharge of the relevant conditions if approval is given.

ACCESS:

Access is a matter to be determined at this time. It is shown as being taken from Hook Lane in a new position created through the demolition of no. 94 Hook Lane. The gap between nos 92 and 96 is 13 metres and this allows for a 4.8m wide shared surface plus space for landscaping either side.

ALP 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. The policy also states proposals must accommodate the efficient delivery of goods and supplies; give priority to pedestrian & cycle movements, have access to high quality public transport facilities; create safe and secure layouts for traffic, cyclists & pedestrians; and consider the needs of people with disabilities by all modes of transport.

The application has been assessed by West Sussex Highways who have raised no objections to the principle of the access and in respect of the safety of its use. WSCC confirm that the shared surface arrangement is suitable to allow for two vehicles to pass one another safely and that visibility from the point of access onto the highway can be achieved wholly within the highway boundary. The other aspects of policy T SP1 would be assessed at reserved matters stage when layout is considered. As

such, there is no conflict with T SP1.

AMENITY

ALP policy D DM1 requires the Council have regard to certain aspects when considering development including having minimal impact to users and occupiers of nearby property and land. Furthermore, ALP 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 Arun Design Guide sets out guidance on interface distances between houses.

It is not appropriate to fully consider these issues at the current time as the application is in outline with only access to be approved. As such, there are no details as to lighting, new windows, building designs/heights, boundary treatments or landscaping. These matters would be considered on a reserved matters application. The site layout is indicative only and any outline permission will not be granted in accordance with the housing layout shown.

The proposed access road will align between numbers 92 and 96 Hook Lane. This will result in vehicle movements to the side and rear of existing properties where there are currently none. This will create a level of additional disturbance to these properties. However, there are only a maximum of 6 dwellings proposed, vehicle speeds will be very slow in these areas and there will be significant landscaping and space between the access road and the existing properties to allow for noise reduction. No significant impacts on residential amenity will arise as a result.

The indicative layout shows a mixture of bungalows, one and half storey dwellings and a two storey dwelling. These details are not for consideration at this time. However, it can be concluded that, with the exception of the 1 two storey dwelling, the proposed scale would accord with the character of the area.

It is therefore considered that the proposal complies with ALP policies D DM1 & QE SP1.

BIODIVERSITY:

ALP policy ENV DM5 requires that proposals achieve a net gain in biodiversity and protect existing habitats on site.

The proposal will result in the development of existing residential gardens and the potential loss of some trees within the central parts of the site. The application is not accompanied by any ecological appraisal but residential gardens tend have low potential as habitat for protected species and this was not raised an issue in the determination of the previous outline application (which was also not accompanied by a survey). In addition, the site is bordered to the south and east by built development associated with the University.

In respect of the adjoining site to the east (Chichester University), it is noted that the Councils ecologist when assessing the development proposals there requested mitigation in the form of landscaping enhancement and the use of bat friendly lighting. The most recent permission on that site (BR/311/18/PL) proposed biodiversity enhancements in the form of wildflower planting plus bat & bird boxes.

A condition would therefore be imposed on any approval to request that the landscaping details required for consideration at the reserved matters stage be accompanied by details to demonstrate biodiversity net gain. As such, the requirements of policy ENV DM5 can be assessed at that stage and there would be no conflict with ALP policy ENV DM5.

INFRASTRUCTURE:

This development will be liable for CIL but this will not be calculated until the Reserved Matters application stage when the floor areas of the houses are known. The site does not lie within the Pagham Harbour 5km zone so there is no requirement to collect any financial contribution towards these agreed mitigation measures.

SUMMARY

This application seeks agreement to the principle and access arrangements of a residential development of up to 6 dwellings within the rear gardens of properties within the built up area boundary. This report concludes no harm in respect of character, amenity, highway safety or heritage but there is conflict with policy on flood risk and this is not outweighed by the benefits of the proposal.

It should also be noted that the NPPF presumption in favour of sustainable development does not apply if the site is a high risk flood zone. As such, it is recommended that the application 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.

RECOMMENDATION**REFUSE**

- 1 The proposal is in conflict with Arun Local Plan policy W DM3, the National Planning Policy Framework and associated guidance in that the site lies in Flood Zone 3a and the applicant has not provided an up-to-date Flood Risk Assessment or any information to enable the assessment of the sequential and exceptions tests.
- 2 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning

(Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and 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 refusal, approval has not been possible.