

Recommendation Report for Planning Permission

REF NO: BR/174/25/PL

LOCATION: 17 High Street
Bognor Regis
PO21 1RJ

PROPOSAL: Conversion of vacant Class E building and erection of a first-floor extension to create 7 No. dwellings and a reduced Class E unit (resubmission following BR/72/25/PL). This application may affect the setting of a listed building and is in CIL Zone 4 (Zero Rated) as other development.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	This application seeks permission for the conversion of a vacant Class E building and erection of a first-floor extension to create 7 No. flats and a reduced Class E unit.
TOPOGRAPHY	Predominantly flat.
TREES	None of any significance affected by the development.
SITE CHARACTERISTICS	3 storey commercial terraced property comprising Class E use at ground floor, and 3 no. residential flats (Class C3) at first and second floor. The ground floor was previously in use as Barclays Bank.
CHARACTER OF LOCALITY	Town centre, comprising a mix of retail, leisure, commercial and residential uses.

RELEVANT SITE HISTORY

BR/72/25/PL	Conversion of vacant Class E building and erection of a first-floor extension to create 7 No. flats and a reduced Class E unit. This application may affect the setting of a listed building and is in CIL Zone 4 (Zero Rated) as other development.	Refused 16-07-25
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BR/72/25/PL was refused in July 2025 and sought the same development as proposed in this application. This is subject to appeal and is awaiting a decision.

REPRESENTATIONS

Bognor Regis Town Council - No objection. Members would like to see action taken to address the lack of openable windows, especially in the form of an overheating assessment.

No representations received from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted.

CONSULTATIONS**CONSULTATION RESPONSES RECEIVED:**

Environmental Health - No objection subject to conditions regarding noise.

Natural England - Further information required.

WSCC Highways - No objection subject to conditions showing site up and submission of a travel pack.

Economic Development - No objection, we are pleased to see the shop frontage activated with aspects of the ground floor retained as retail.

Conservation Officer - No harm to the setting of the identified heritage assets.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted. A completed legal agreement satisfactorily addresses the comments raised by Natural England.

POLICY CONTEXT

Built Up Area Boundary

Prone to Groundwater Flooding (Medium to high probability)

Flood Zone 1

Future Flood Zone 3a (Climate Change)

Pagham Harbour Zone B

Erosion Risk Statement

Economic Growth Area

Town Centre Retail Boundary

2km Buffer for Site of Special Scientific Interest

CIL Charing 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
DDM4	D DM4 Extensions and alter to exist builds (res and non-res)
DSP1	D SP1 Design
ECCSP1	ECC SP1 Adapting to Climate Change
ENVDM5	ENV DM5 Development and biodiversity
HERDM1	HER DM1 Listed Buildings
HERDM2	HER DM2 Locally Listed Buildings or Structures of Character

HERSP1	HER SP1 The Historic Environment
QEDM1	QE DM1 Noise Pollution
QESP1	QE SP1 Quality of the Environment
RETDM1	RET DM1 Retail development
RETSP1	RET SP1 Hierachy of Town Centres
SDSP1	SD SP1 Sustainable Development
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

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 evidence has been provided demonstrating that the works would not result in adverse risk to life and property from flooding, or that there are no alternative reasonably available sites at a lower risk of flooding where the development could be located.

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 not liable for biodiversity net gain being below the de minimis threshold.

CONCLUSIONS

BACKGROUND

The application is identical to an application that was refused under BR/72/25/PL in July 2025. This application seeks to address the reasons for refusal which related to the absence of a sequential test and an insufficient flood risk assessment.

Since the previous application was determined there has been an update to the NPPG and flood risk.

As all other aspects of the application were considered acceptable only those relating to flood risk at the site have been reassessed.

PRINCIPLE

The site is in the Built-Up Area Boundary where the principle of development is supported subject to consideration against other relevant Development Plan Policies in line with policy SD SP2 of the Arun Local Plan (ALP).

Bognor Regis has a 'made' Neighbourhood Development Plan (BRNP), of which policies 1, 4, 8A, and 8b are relevant. The Arun Design Guide (ADG) and Arun Parking Standards (APS) are also relevant to this application.

The NPPF is an important material consideration in determining applications. As the Council cannot demonstrate a 5-year HLS, para 11(d) of the NPPF and the application of the 'presumption' for sustainable development could be triggered. Paragraph 11(d) of the NPPF 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.'

Paragraph 11(d)(i) of the NPPF refers to Footnote 7 which states 'The policies referred to are those in this Framework (rather than those in development plans) relating to... areas at risk of flooding or coastal change.'

The site is within Future Flood Zone 3a, and is at risk of flooding in the lifetime of the development. As such, this application falls to be determined in the context of 11(d)(i) of the NPPF.

IMPACT ON THE TOWN CENTRE

ALP policy RET SP1 states Bognor Regis and Littlehampton will be the main focus for major retail, leisure, commercial, office, tourism, cultural, community and residential development - and the Council will positively welcome development & initiatives aimed at the sustainable economic growth and social wellbeing of these centres.

Bognor Regis Neighbourhood Plan (BRNP) policy 4 is of relevance and supports the reuse of underutilised premises within the primary and secondary town centre frontages.

Policy RET DM1 permits the reuse of redundant commercial floorspace to upper floors provided that it can be demonstrated that conversion of the space does not inhibit the needs of the retained commercial area, there are no adverse effects of neighbouring occupiers, and the proposal minimises noise intrusion.

The new residential accommodation will increase footfall in and around the town centre which will result in a boost to the sales of local shops and other commercial uses. A populated building in a central location adds an element of passive surveillance during times when an area is least inhabited, and this can help reduce anti-social behaviour in town centres.

Whilst the proposal reduces the amount of retail accommodation, it will retain an element of retail to the ground floor and retain the established retail frontage facing the High Street (secondary frontage). ADC Economic Regeneration raised no objection to the reduction in retail accommodation.

The proposal accords with ALP policy RET DM1 and BRNP policy 4.

CHARACTER AND APPEARANCE

Policy D DM1 sets out 13 design aspects of which applications should be assessed against. These include Character, Appearance, Impact, Innovation, Adaptability, Crime Prevention, Public realm, Layout, Density and Scale.

Policy D DM4 sets out criteria for which applications relating to extensions and alterations of existing buildings must be assessed against. It generally seeks to minimise the impact of the proposal on the character of the host building and the locality.

BRDP policy 8a requires that new development demonstrate 'design excellence' and help to establish a strong sense of place, create attractive and comfortable places to live, work and visit. This should include using good quality materials.

The ADG is a material consideration and section J refers to building design and states 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. New development should generally reflect the scale of existing buildings and should avoid overshadowing of neighbouring properties. Roof extensions should not be visually intrusive or block light into surrounding properties. They should not detract from the character and appearance of the building and local area.

The works includes the demolition of part of the site, comprising a single storey flat roofed area, to create external private and shared amenity spaces; subdivision of the ground floor retail unit to create a smaller retail unit and 5 No. flats; and first floor extension to the rear of the property to create 2 No. flats. The extension is unlikely to be visible from the the High Street, although some views would be likely be achievable from the rear of the site on Belmont Street. The development along this road is varied and the extension would not appear out of character.

This extension will measure 6m in height, and project from an existing first floor building. It will measure 6.7m deep and 5.6m wide, and have a flat roof to match the existing building. The extension will integrate closely with the existing property, and sympathetically increase the scale of the building without undue detriment to the visual appearance of the site or surroundings. It is a minor development which will remain in keeping, and reflect the design of the site. As such, this aspect of the development is acceptable.

At present, the site comprises retail at ground floor, and residential at first floor and above. This is consistent with other properties and would not result in harm upon the character of the area and will

remain in keeping with the varied character of the town centre.

The works are in accordance with ALP policies D DM1 and D DM4, policy 8a of the BRNP, and the ADG.

RESIDENTIAL AMENITY / QUALITY OF THE ENVIRONMENT

Policy QE SP1 of the ALP sets out criteria for which applications relating to new development must be assessed against. It generally seeks enhance the quality of its environment.

Policy D DM4 requires that extensions do not have an adverse overshadowing, overlooking or overbearing effect on neighbouring properties.

As stated elsewhere, policy RET DM1 requires no significant adverse effects for the occupiers of neighbouring properties.

The ADG sets out guidance on interface distances between dwellings and these are: 21m for back-to-back and 16m for front to front. The layout of site does not respect a standard front/rear layout between dwellings, as such application of 'standard' rules may be difficult. Back-to-back relationships i.e. those where most privacy is expected may be reduced where appropriate. It is appropriate in this location to apply reduced separation gaps between dwellings, however a good standard of amenity for occupants should still be ensured.

In terms of overbearing and overshadowing, the only element of consideration is the first floor extension to the rear portion of the site to facilitate the creation of the two first floor flats. This will result in the creation of further first floor development measuring 6m high (to align with the existing first floor) which will span up to the southern boundary; abutting Belmont Lodge. There will be no adverse harm posed to the neighbouring properties to the east and west. The proposal will result in some overshadowing of Belmont Lodge; however as this will abut existing built form, and not overshadow any habitable areas or amenity areas, this impact will be acceptable and will not adversely harm residential amenity.

In respect of overlooking, only the first floor side openings pose any risk of harm to residential amenity and privacy. This is primarily the window openings on the west elevation, which will face onto the neighbouring property to its west. These windows serve the proposed dining area and bedroom for Flat 7. Those in the dining room will be high level, and as such pose no demonstrable harm of overlooking. The windows to the bedroom would only have minor visibility of neighbouring windows to the west, and as such would not pose enough level of harm to be considered detrimental to residential privacy and amenity.

In terms of noise and disturbance, the introduction of 7 No. flats would introduce additional occupiers to the site, each with their own individual movements. Environmental Health were consulted, and whilst they did not consider the submitted noise assessment to be satisfactory, they did not object to the scheme. This was subject to conditions requiring a scheme to be submitted and approved for how the dwellings will be kept safe from noise, and assessment of acoustic impact arising from plant and service machinery. Were this application being approved, these conditions would have been applied below.

The property is in a town centre location subject to a wide variety of noise arising from various sources. The introduction of 7 occupiers on site would result in an increase in noise; however given the location and surrounding uses, the noise and disturbance created by these occupiers would not be detrimental to the residential amenity of other nearby occupiers. Therefore, the proposal is considered appropriate for this location in regard to residential amenity.

As such, the development is in accordance with ALP policies D DM1, D DM4, RET DM1, QE DM1 and QE SP1.

SPACE STANDARDS

Policy D DM2 of the ALP requires internal spaces to be an appropriate size to meet the requirements of all occupants and their changing needs.

The proposal is to include a two unit sizes; 3 No. studio 1B/1P, and 4 No. 1B/1P. As per the Nationally Described Space Standards, the minimum area for a 1B/1P unit should be 39sqm, or 37sqm if including a shower room. Single bedrooms must measure at least 7.5sqm, and 2.15m wide. All units have been reviewed, and meet the minimum dimensions for a single bedroom. The following internal areas are proposed, and meet the minimum NDSS requirements:

- Flat 1, 2 and 3 = 38.2sqm each
- Flat 4 = 42.3sqm
- Flat 5 = 41.4sqm
- Flat 6 = 42.3sqm
- Flat 7 = 41.4sqm

Part G of the ADG states that rear gardens must be at minimum 10.5m deep; however it is acknowledged that within town centre locations, this depth is not always possible. Part H of the ADG advises that for residential communal shared spaces, this should be a minimum of 40sqm plus 10sqm for each unit. For 7 No. units, this would total 110sqm of amenity space within the site. The following amenity spaces are proposed:

- Flat 1, 2, 3 = 17.2sqm each
- Flat 4 = 65.1sqm
- Flat 5 = 27.5sqm
- Flats 6, 7 = 0sqm
- Shared amenity space = 78.5sqm

This level of amenity space is sufficient for the number of occupiers of the site, and will provide an appropriate amount of private external garden and communal amenity space for all units.

The proposal is in accordance with ALP policy D DM2, and the ADG.

PARKING AND HIGHWAYS

Policy T SP1 (ALP) requires development to reduce the need to travel by car by identifying opportunities to improve access to public transport services whilst making provision for safe access to the highway network.

Arun 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 Arun SPD requires seven parking spaces for a property in this parking zone (4), which requires one space per 1 bed flat. No car parking is proposed. This nil-provision will result in some demand for public parking provision within the local area. The property backs on to Belmont Street which comprises on-street parking spaces, and the Regis Centre Car Park. These parking facilities are subject to parking restrictions and payments, and under control of the Council. There is capacity within the vicinity for the addition of up to seven cars, without undue detriment to the amenity and safety of other local vehicle

users, residents and visitors. WSCC Highways raised no objection.

The site is in a highly sustainable location, with excellent access to local facilities, shops and a range of public transport options. Bus services run to the front of the property and the train station is approx.450m away. The necessity for a car in this location is not essential, with other options for travel available for future occupiers. A condition has been requested by WSCC for future residents to be provided with a Travel Information Pack, and would have been imposed. This pack would detail the access to public transport and cycle routes in the local area, to both raise awareness and potentially promote the use of alternative travel.

Cycle parking should be provided at a rate of 1 space per flat. Cycle parking for all units is proposed, within a dedicated bin and bike storage area, however details of this parking is limited, other than indicating the use of cycle racks. Were permission being granted, a condition would be applied below.

As the proposal provides a sustainable use of a property in the town centre, with a range of public and alternative transport options easily accessible to residents, refusal on the basis of the lack of parking is unjustifiable, as sufficient alternative provision is available. The application is therefore in accordance with T SP1 and QE SP1 of the ALP.

HERITAGE ASSETS

ALP policy HER DM1 requires proposals to protect and enhance the setting of Listed Buildings. Policy HER DM2 refers to locally designated buildings of character but only in respect of physical alterations or demolition. However, buildings of character are also described as non-designated heritage assets (NDHA) and policy HER SP1 refers to the need to protect the setting of these. BRNP policy 1 requires that proposals affecting designated and non-designated heritage assets should demonstrate how proposed changes will support the delivery of relevant BRNP objectives and the vision for Bognor Regis.

The building is not a heritage asset and does not lie in a protected heritage area. There are locally listed (Non-designated heritage assets) to either side of the building (The Arcade, 17B High Street and 15 High Street). There is a grade II listed building only a short distance away to the south-east (Bognor Regis Town Hall). The proposal has the potential to affect these heritage assets.

The majority of external works are to be located to the rear of the property, and of limited public visibility within the context of heritage assets. As such, the works to the rear will have no adverse impact on the historic context and nearby assets, and pose negligible harm. The change of use would bring back into use a currently vacant retail unit within the high street, which would in turn improve the use and appearance of the building within the surrounding context. The proposed use would be congruent with the mixed use of the local area, and would not result in harm to the historic environment through the changing of the buildings character. The Conservation Officer raised no concerns.

As such, it can be concluded that the proposal would have no harm to the significance of the heritage assets, and would be in accordance with ALP policies HER DM1 and HER DM2, and policy 1 of the BRNP.

BIODIVERSITY

ALP Policy ENV DM5 requires that development schemes seek to achieve a net gain in biodiversity and protect 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 came in on the 2 April 2024, requiring all sites provide 10% BNG on or off site, unless exempt. Whilst this requirement is active, 10% is not required as there is no onsite

habitat which will be affected, and the site is subject to de minimis exemption.

The application has been accompanied by a Biodiversity Enhancement Statement, in which it is detailed that further ecological enhancements would be made to the site to support gain in biodiversity. This includes a green roof, bird nesting boxes, bug hotel or invertebrate box, and wildlife friendly lighting. These are positive and appropriate enhancements to the site, and meet the requirements of ENV DM5 to enhance biodiversity and wildlife on site.

Were this application being approved, the mitigation measures set out above would have been secured via condition.

FLOOD RISK

Paragraph 11(d) of the NPPF 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.

Paragraph 11(d)(i) of the NPPF refers to Footnote 7 which states 'The policies referred to are those in this Framework (rather than those in development plans) relating to... areas at risk of flooding or coastal change.'

In respect of the criteria forming a 'strong' reason for refusal, the Inspector for a recent appeal decision (APP/V2255/W/24/3350524) stated that 'a 'strong' reason for refusal based on flooding must, to my mind, go beyond mere technical conflicts, even if they are important. There must be substantive risks and harms that go beyond policy'.

Footnote 63 of the NPPF states 'A site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3. In Flood Zone 1, an assessment should accompany all proposals involving:... land identified in a strategic flood risk assessment as being at increased flood risk in future; or land that may be subject to other sources of flooding, where its development would introduce a more vulnerable use'.

Paragraph 174 of the NPPF pertaining to flood risk states 'the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding'. Paragraph 175 furthers this, and states 'the sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk)'.

Policy W SP1 of the ALP states 'The Council will also support development that... is appropriately located, taking account of flood risk and promotes the incorporation of appropriate mitigation measures...'

Policy W DM2 of the ALP requires all proposals to satisfy the following criteria.

- a. The sequential test in accordance with the National Planning Policy Guidance has been met.
- b. A site specific Flood Risk Assessment demonstrates that the development will be safe, including access and egress, without increasing flood risk elsewhere and reduce flood risk overall.
- c. The sustainability benefits to the wider community are clearly identified.

- d. The scheme identifies adaptation and mitigation measures.
- e. Appropriate flood warning and evacuation plans are in place; and
- f. New site drainage systems are designed to take account of events which exceed the normal design standard i.e. consideration of flood flow routing and utilising temporary storage areas.

The reasons for refusal under BR/72/25/PL related to an insufficient FRA and the absence of a sequential test.

The site is in Flood Zone 1 for the present day. The application has provided a FRA. This has not been updated since the previous application and appears to be the same document submitted under BR/72/25/PL. There is some additional content within the Design and Access Statement to address previous concerns raised within the FRA.

Environment Agency Flood Risk Mapping (available at: <https://flood-map-for-planning.service.gov.uk>), shows the most up-to date flood mapping for Bognor Regis. This supersedes the Council's own SFRA data, which identified in 2016 that the site would partially be in Flood Zone 3a by 2111. The EA data now shows this risk is far greater than previously identified by the Council, and shows that with Climate Change applied, the 0.5% or greater annual probability of flooding from sea will cover the site, both when accounting for sea defences, and when not. As such, this map shows the whole of the site to be in Flood Zone 3a within the next 100 years.

Table 1 of the PPG (Paragraph: 078 Reference ID: 7-078-20220825) identifies definitions for flood zones; stating that Flood Zone 3a is mapped as 'Land having a 0.5% or greater annual probability of sea'. In accordance with Paragraph 170 of the NPPF, development should be 'made safe for its lifetime'. Residential development can be assumed to have a lifetime of at least 100 years (PPG Paragraph: 006 Reference ID: 7-006-20220825). This subsequently requires that the applicant ensures, and sufficiently demonstrates that both life and property will be kept safe for the lifetime of the development. Without adequate identification of all potential flood risks to the site for the next 100 years, this requirement has not been met.

The updated information provided by the applicant aims to address the future flood risk at the site. This firstly states that the lifetime of the development should be considered 75 years as it is a conversion of an empty 1950s building, not a new-build development. The proposal seeks new development in the form of an extension which will enable construction of 4. No new flats and the council consider 100 years is the more appropriate lifetime of the development.

The applicant has sought to identify the amount of the site that would be covered by future flood risk based on 5 year incremental estimates based on EA current and future flood risk mapping and concludes that less than half of the site would be at risk and the development is acceptable with regards to future flood risk. The incremental approach to estimate the amount of site that would be affected by future flood risk for 75 years (which the applicant determines is the lifetime of the development) is disputed. This is not informed by supported flood risk analysis and there is no evidence in the form of EA mapping available to demonstrate the incremental increases proposed. The flood mapping available simply shows that the site is affected in the future but the amount of change based on each year is not available to review and the assumption that in 75 years only half the site will be covered is not proven or supported by any meaningful data.

The FRA suggests the following mitigation measures:

- Safe escape will be provided by a formal flood warning and evacuation plan, which will be prepared in liaison with the Emergency Planners and tied in with the existing Emergency Plans for the area.
- The applicant will register with the Environment Agency Floodline Alert/Warnings Direct service and

Met office National Severe Weather Warning Service.

- Flood proofing of the building will be incorporated as appropriate. This includes a flood defence door to create a hermetically blocked passageways.

The previous application suggested the occupiers of the ground floor units can reach safe refuge on the stairwells to the first floor flats and this position remains the same. No further information has been submitted to address this or identify how evacuation would take place without being reliant on stairwells to provide escape access.

The previous officers report made reference that the incorporation of a flood defence door is positive. Reliance on flood warnings and evacuation plans, along with assumption that ground floor occupiers can reach higher ground in stairwells is not sufficient. The FRA states that masonry walls surround the site, and this is considered to result in only the passageway being the only location where flood water will be able to enter the site. It cannot be guaranteed that the surrounding boundaries of the site would withstand the hydrostatic pressure of the flood water; and should they fail, the areas behind flood defences are at particular risk from rapid onset of fast-flowing and deep-water flooding, with little or no warning if defences are breached. This puts the proposal at risk of internal flooding.

Recent appeal decisions, such as BR/50/24/PL (APP/C3810/W/24/3356442), where permission was sought for an HMO in Flood Zone 3a with a ground floor bedroom, indicates that avoidance of the creation of ground floor units within this flood zone is the most effective way to ensure lives are kept safe from flooding. This is because, whilst flood events are rare, there is no certainty that over-topping or breach of the flood defences would not occur during extreme or sudden events. It is not always possible for these events to be sufficiently predicted, in time for occupiers to evacuate their properties. Occupiers of the ground floor units may be asleep during a sudden undefended tidal inundation, and they might not be able to reach the stairs to the upper levels. Even if they did, the requirement for them to wait in a stairwell would not be an acceptable refuge for a potentially lengthy period whilst waiting to be discovered and rescued, or waiting for flood water to subside. The assumption that occupiers will be able to evacuate in time puts lives at adverse risk, and does not consider all possibilities of harm arising from this flood risk.

Despite providing further information, the FRA does not sufficiently address the previous concerns that were raised regarding flood risk and does not satisfactorily address how occupiers will be safe from future flood risk, with no additional details provided to identify evacuation routes/plans. This FRA subsequently does not overcome the previous concerns raised and does not meet the requirements of the NPPF, nor W DM2 of the ALP.

The flood risk to the site is a significant issue, as the proposal would result in the creation of 5 No. ground floor residential units. As such, whilst the site at present incorporates flats at first floor, the change to the ground floor retail unit to residential use will result in the vulnerability of the whole site increasing from a 'less vulnerable use' to 'more vulnerable use', as set out by Annex 3 of the NPPF.

With regards to the absence of a sequential test. Criteria 'a' of policy W DM2 of the ALP, Paragraphs 171 - 177 of the NPPF, and 'Flood risk assessment: the sequential test for applicants' from the NPPG identify the need for applicants to apply the sequential and exception tests as relevant for development within Flood Zones 2, 3, 3a or Flood Zone 1 where there are other sources of potential flooding. Information has been provided in the FRA to address the Sequential Test, but concludes that as the site is in Flood Zone 1, these tests are not required.

This is incorrect, as the site falls within Flood Zone 3a within the lifetime of the development, and includes development to facilitate the creation of residential units, with the vulnerability of the site increasing (as has been identified above). This triggers the requirements for the sequential test, and if

found necessary, the exception test.

Paragraph 027 of the PPG states 'For individual planning applications subject to the Sequential Test, the area to apply the test will be defined by local circumstances relating to the catchment area for the type of development proposed. For some developments this may be clear... In other cases, it may be identified from other Plan policies. For example, where there are large areas in Flood Zones 2 and 3 (medium to high probability of flooding) and development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives'.

Whilst it is accepted that RET SP1 identifies the Bognor Regis town centre as an area in which various development should be focused, including residential, there are strategic policies within the Local Plan such as H SP1 that identify housing development shall be focused on the two main towns and their associated hinterlands in order to support their role as the two main service, employment, retail and social centres. Whilst residential development in the town centre would go some way to sustain the existing community in the centre, comparable residential development in the wider vicinity of the town centre would still sustain the community of the town centre as the catchment area of the centre is likely significantly larger than its boundaries, and such areas are likely to be at lower risk of flooding. Flood mapping additionally indicates that there are potential locations within the town centre which fall outside of a current or future flood zone. No other sites have been explored through the FRA, and no evidence has been supplied to show that the development cannot be located in an area of lower flood risk.

Since the previous application was determined, there have been changes to the NPPG regarding flood risk and sequential tests.

Paragraph 27 of the PPG has been updated and states 'In applying paragraph 175 a proportionate approach should be taken. Where a site-specific flood risk assessment demonstrates clearly that the proposed layout, design, and mitigation measures would ensure that occupiers and users would remain safe from current and future surface water flood risk for the lifetime of the development (therefore addressing the risks identified e.g. by Environment Agency flood risk mapping), without increasing flood risk elsewhere, then the sequential test need not be applied'.

Paragraph 27a is additional and reads 'A pragmatic approach needs to be taken where proposals involve comparatively small extensions to existing premises (relative to their existing size), where it may be impractical to accommodate the additional space in an alternative location. Equally, where there are large areas in Flood Zones 2 and 3 (e.g. coastal towns and settlements on major rivers) and development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives. The sequential test should be applied proportionately, focusing on realistic alternatives in areas of lower flood risk that could meet the same development need.

It is accepted that the extension is relatively minor in size compared to the existing premises. Nonetheless paragraph 27 states that for the sequential test to need not be applied, the FRA should clearly demonstrate that the design, layout and mitigation measures would ensure that occupiers are safe from current and future flood risk. As stated above, the FRA has not satisfactorily demonstrated that occupiers would be safe with specific regard to evacuation and a sequential test would therefore still be required.

The sequential and exception tests have not been applied appropriately in this instance, and it has not been established that there are no other reasonably available alternative sites at a lower risk of flooding for this development. Therefore, it should not be granted permission, due to direct conflict with policy W DM2 of the ALP and Paragraphs 171 - 177 of the NPPF.

As the exception test is foreclosed by the outcomes of the sequential test, it would not be reasonable for

the exceptional test to be requested until an acceptable sequential test has been undertaken. As such, the lack of an exception test is not sufficient on its own to warrant refusal.

Policy W DM3 states all development must identify opportunities to incorporate a range of Sustainable Urban Drainage (SUDs) systems. These features may include green roofs, permeable driveways, soakaways, water harvesting such as water butts.

The property is already existing and does not propose any increase in footprint or impermeable areas. A green roof is proposed to the new two storey element of the proposal, which is a benefit to reduce surface water run off from built form on the site. The existing drainage arrangements for the site are proposed; and as there is to be no increased impermeable areas, it is concluded that no additional surface water run off will be created as a result of the proposal. Therefore, in accordance with W DM3, the proposal is acceptable.

The proposal has not addressed the previous concerns raised and fails to adequately address the flood risk to the site, resulting in adverse risk of harm to life and property from flooding. As such, the development is not in accordance with relevant paragraphs of the NPPF, policies W SP1 and W DM2 of the ALP, or the PPG. This flood risk is such that it constitutes a strong reason for refusal, in accordance with the definition and criteria ruled by the Inspector for APP/V2255/W/24/3350524.

PAGHAM HARBOUR

Policy ENV DM2 requires that 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. The current rate is £962 per dwelling.

The site lies in Zone B. As 7 new residential units are proposed, the payment for the Access Management Contribution attracts the need to pay for each new dwelling. Therefore a total contribution of £6734 is required.

The application has been accompanied by a draft S106 Agreement, and this has been checked and completed by the ADC Legal department.

The proposal secures the financial mitigation against Pagham Harbour and on this basis the proposal is in accordance with ALP policy ENV DM2.

SUSTAINABLE CONSTRUCTION

Policy ECC SP2 requires all new residential and commercial development to demonstrate how it will be energy efficient.

The proposal seeks the reuse and repurposing of an existing structure, and includes the installation of Solar PV Panels to the roof of the proposal. The incorporation of these panels is sufficient to meet the requirements of ECC SP2, and would aid the generation of renewable energy on site for use by the occupiers.

BIN STORAGE

The Arun Local Plan policy WM DM1 requires for all new residential development to have appropriate bin storage/collection provision. Section H.07 of the ADG advises that it should meet the requirements of users of the buildings while being as unobtrusive as possible.

A bin storage area is shown on the proposed site plan, and it is detailed within the DAS that 480l of waste storage is provided per dwelling. Arrangements for waste collection is still subject to discussion. Were this application being approved, the waste arrangements for the site would have been secured via

condition.

SUMMARY

The proposal has not sufficiently addressed the previous reasons for refusal with regard to flood risk. The FRA fails to adequately identify and assess the impacts of future flood risk on the site, and does not adequately demonstrate that the occupiers can be kept safe from flooding during the lifetime of the development. In addition, the FRA fails to undertake a Sequential Test, and as such the requirements as set out in the NPPF and the ALP for this test, and subsequent Exception test (if found to be necessary), have not been met. It has not been demonstrated that there are no alternative sites appropriate for the development in areas at lower risk of flooding, or that wider sustainability benefits can be provided. The relevant paragraphs of the NPPF pertaining to areas at risk of flooding provide strong reasons for refusing this development and the presumption in favour of sustainable development does not apply in accordance with Paragraph 11d(i) of the NPPF. The 'tilted balance' within paragraph 11(d(ii)) of the NPPF is not applicable to this proposal. The proposal is also contrary to policies W DM2 and W SP1 of the ALP, and the PPG. Recognising that there is a matter at appeal a decision on this matter was delayed until the last possible day to meet government targets. No appeal decision was received and so refusal represents a consistent approach.

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 for contributions towards mitigation upon Pagham Harbour has been completed.

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

REFUSE

- 1 The proposal conflicts with Arun Local Plan Policies W SP1 and W DM2, the NPPF and associated guidance in that the site lies in Future Flood Zone 3a and, whilst an FRA has been submitted, the applicant has not provided sufficient information to adequately assess the flood risk to the property both now and in the future, nor demonstrate that occupiers of the site can be kept safe from flooding for the lifetime of the development.
- 2 The proposal has provided insufficient evidence to confirm that there are no alternative sites appropriate for the development. As such, the Sequential Test requirements have not been met in conflict with the NPPF, the PPG, and Policies W DM2 of the Arun Local Plan.
- 3 **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 determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.