

Recommendation Report for Planning Permission

REF NO: BR/191/18/PL

LOCATION: 2 - 4 Waterloo Square
Bognor Regis
PO21 1SU

PROPOSAL: Demolition of 2 & 3 storey building with mixed use (commercial & dwellings). This application affects the character and appearance of The Steyne, Bognor Regis Conservation Area

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application was accompanied by the following items: "Method Statement and Risk Assessment"; "Asbestos Refurbishment Survey"; Initial Structural Engineers Opinion; "Design & Access Statement"; "Phase 1 Ecological Survey"; and "Additional photographic evidence demonstrating condition of the building"; The initial evidence concluded that: - There is extensive water ingress into the structure; - The structural steel beams and structural timber elements are not in a particularly great condition; - Many of those at ground floor are in an advance stage of corrosion or decay; - Due to the possible presence of Asbestos containing materials (ACM's) it was not possible to expose the enclosed elements; - There are also a number of hidden voids which contain pigeons & pigeon droppings which are a cause of harm to general human health; - It was evident that a previous refurbishment had stopped abruptly and this also does not assist in the investigation of the prime structure; - The prime supporting structure has suffered extensively with water & salt ingress, with the buildings being located in an extremely hostile environment right on the sea edge; - Whilst no calculations have been carried out to justify the structure, it was clear that extensive works would be required to expose the hidden elements of the structure and assess whether they would require refurbishment or a complete structural change; - Due to the visual condition of the exposed structural
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steelwork, the exposed decayed timberwork and the cracking within the render finish plus the overall condition of the buildings, it is the applicants opinion that the structure is not in a safe & stable condition for occupation; and

- There are many areas that could not be explored during the initial visit and based on the condition of the exposed structural elements, many hidden elements of steelwork and timberwork will also be in a very poor condition.

Subsequent evidence stated that:

- Photographic evidence demonstrates the extent of the structural issues;
- Deterioration and damage to the building has occurred due to the lack of maintenance;
- This deterioration has been the result of many years of neglect;
- Whilst the buildings are in a conservation area and locally listed, it must be realised that a total rebuild is required to reinstall the structural strength and allow reuse;
- It is too dangerous to fully examine the building;
- These buildings are now in a very dangerous state and require demolition to ensure the safety of the public and surrounding structures;
- Due to the visual condition of the exposed structural steelwork, the exposed decayed timberwork and the cracking within the render finish plus the overall condition of the buildings, it is our opinion that the structure is not in a safe and stable condition and demolition should not be delayed;
- We cannot say for sure when they will collapse, but collapse they will and it will only take one single element to fail for this to occur; and
- Given that the buildings are now fully exposed to what the open sea environment can throw at them, means that a decision must be made sooner rather than later as lives are at risk should the building fail.

TOPOGRAPHY

Predominantly flat.

TREES

None affected by the proposed development.

BOUNDARY TREATMENT

None to front, sides or rear (built right up to the boundaries).

SITE CHARACTERISTICS

Existing buildings on a site that stretches between Waterloo Square on the west side and Norfolk Street to the east side. Those fronting Waterloo Square were formerly in commercial use at ground floor with flats above. They have a particular design and are yellow rendered with black detailing and a couple of first floor balconies. The southern flank has part red hanging tiles and part grey render/bricks where it was formerly joined to a now demolished building. Those buildings fronting onto Norfolk Street are simpler in design and rendered or fascia clad in duller colours. There is/was no provision for parking within the site. On-street parking is very limited and either pay & display or resident permit only.

CHARACTER OF LOCALITY

The site is part of the Bognor Regis seafront. It is located outside of the primary retail area but includes a mix of retail (including restaurants & bars), leisure (including hotels) and residential uses. In addition, the Grade II Listed Bognor Regis Pier is located diagonally opposite the site to the southwest. The centre of Waterloo Square contains a bowling green and public gardens. Neighbouring uses include:

* 6-8 Waterloo Square - a former casino/amusement arcade at ground floor with two floors of residential flats above. This has the benefit of a recent permission (ref BR/143/18/PL) for change of use from vacant arcade to mix of shops, restaurant/cafes, drinking establishment and outdoor seating areas together with changes to the ground floor external facade. There are no obvious window openings overlooking the site;

* Norfolk Street - a casino on the corner of Norfolk Street/The Esplanade with two to three floors of residential flats above. The other affected parts of Norfolk Street are considered to be residential in nature or form the rears of commercial properties fronting Lennox Street to the east. There are other retail uses further north along Norfolk Street.

RELEVANT SITE HISTORY

BR/239/11/	Conversion of existing nightclub premises into two town houses & eight apartment flats	App Cond with S106 03-06-13
BR/88/96	Extension of existing Beach Hotel building and surrounding structures, demolition of single storey outbuildings and replacement with two storey extension to existing club premises.	ApproveConditionally 16-07-96
BR/36/93	Restoration of existing Beach Hotel Building, demolition of surrounding structures and construction of two/three storey extension to accommodate retail/restaurant units at ground level and multi-purpose Class D2 (assembly and leisure) premises at first floor with ancillary accommodation over.	ApproveConditionally 07-04-93
BR/173/91	Demolition of existing retail/restaurant and club premises other than that known as The Beach Hotel. Construction of new retail/restaurants at ground floor with 6no.flats at first floor, 1no.at second and 1no.at third floor levels. Refurbishment of The Beach Hotel.	ApproveConditionally 21-08-91

BR/360/90	Application under Regulation 5 of the Town & Country Planning General Regulations 1976 for new Building and refurbishment of the main building to provide restaurant and /or retail shop uses on the ground floor; six flats on the first floor (3 x one-bed and 3 x two-bed flats); 1 x two-bed flat on second floor and 1 x two-bed on third floor.	Deemed Perm Cnd 21-11-90
BR/118/90	Application under Regulation 5 of the Town and Country Planning General Regulations 1976 for Outline Application for extensions and internal alterations to ground floor and first floor for, on the ground floor, retail including the sale of food and a maximum of 63m sq of amusement arcade; on the first floor, club use; and	Deemed Perm Cnd 09-05-90
BR/61/69	Change Of Use Extension To Restaurant	Approve 18-04-69

The currently vacant land to the south was previously subject to a fire in November 2016. This led to the demolition and clearance of badly damaged buildings. There was no planning permission for this as demolition/clearance was urgently necessary in the interests of safety and health and as such was in accordance with Schedule 2, Part 11, Class B (B.2 (a)) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

It is understood that there will be a proposal to redevelop the application site along with the vacant land to the south but at the current time, there is no approved scheme for this.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Bognor Regis Town Council

Bognor Regis Town Council

Bognor Regis Town Council originally wrote on the 8th August 2018 to state:

"NO OBJECTION The Committee hoped that any future development on this site will reflect the character and style of the surrounding area. Members would welcome an opportunity to receive a presentation from the developers in regard to planning applications on this site."

They then provided a further comment on the 21st September to withdraw their previous response:

"Bognor Regis Town Council wish to withdraw the previous representation made on 8th August 2018, in respect of Planning Application BR/191/18/PL, of 'no objection'. Having considered the numerous correspondence and reports that have become available on ADC's public portal, since our first

comments were submitted, the Town Council are now minded to OBJECT to the application and wish to have this officially recorded."

The Town Council then provided a final comment on the 11th October:

"As you are aware, the Town Council's Planning and Licensing Committee met on the evening of Tuesday 9th October 2018. During the meeting, Members reconsidered Planning Application BR/191/18/PL: 2-4 Waterloo Square, Bognor Regis.

Having been presented with photographic evidence of both the internal, and external, state of the building, and in considering the second report from ADC's Structural Engineer, Members were minded to return to the Committee's original decision in support of demolition and resolved to agree to rescind the decision made at the Planning and Licensing Meeting held on 18th September 2018, to raise an 'Objection' to Planning Application BR/191/18/PL.

Furthermore, Members resolved to agree that a representation of 'No Objection' be submitted in regard to demolition.

However, the Committee stressed that any future Planning Applications on this site must adhere to the aspirations of the Bognor Regis 2015-2030 Neighbourhood Development Plan (NDP). Particular reference was made to Policy 3 of the Bognor Regis NDP pertaining to the Old Town whereby applicants are encouraged to demonstrate how proposed changes make a positive contribution to Bognor Regis' seaside town identity by making clear reference to the Bognor Characterisation study, 2014.

Additionally, 2-4 Waterloo Square is identified by Arun District Council as a building or structure of character. Whilst Members regrettably feel that the building, in its current state, should be demolished they unanimously agree that any future Planning Applications on the site must contribute to the character and appearance of the conservation area in which it resides."

In addition, the Council has received 8 letters of objection from interested persons including from local town & district councillors and from an interest group called "Save Britain's Heritage". The concerns are summarised below:

- (1) Not convinced that demolition required in the interests of safety;
- (2) The building is unique and cannot ever be replaced;
- (3) Undue pressure to approve the application being exerted by the applicant;
- (4) Have not seen adequate evidence to support that demolition is required;
- (5) Supporting reports that state building is unsafe is riddled with caveats;
- (6) The building could be restored and made viable;
- (7) 2-4 Waterloo Square is similar in character, design and era to the Old Fire Station in Bognor High Street, now occupied by "The Lock Centre";
- (8) The Council, as landowner, has for years neglected the property and should be held responsible;
- (9) Regeneration of the site should be sympathetic to the history of the area;
- (10) Every opportunity to preserve heritage should be fully explored;
- (11) The supporting heritage information has been prepared for the sole purpose of supporting the demolition;
- (12) No financial information provided to support the assertion that saving the building would be uneconomical;
- (13) Quotes obtained from West Sussex firms suggest that replacing the steels should only cost about £5,000 and that to install 1 beam & 3 columns should cost £3,000 - £4,000 (not including any structural engineers calculations & design input);
- (14) Need an investigation of whether parts of the building can be saved such as for example the facade;

- (15) No redevelopment scheme has been agreed or even put forward;
- (16) All that the photographic evidence demonstrates is that a large amount of work is required to bring the building back to the standard that it should be at;
- (17) Applicant is wrong when he says that 2-4 Waterloo Square is not particularly representative of Bognor's architecture (compare with Royal Pavilion in Brighton);
- (18) Bognor Regis Town Council's own Neighbourhood Plan states that the Waterloo Square conservation area represents an historically important space and landscape area, originally intended to protect views from Sir Richard Hotham's Fitzleet House (no longer standing);
- (19) Condition survey undertaken from the outside only;
- (20) Design of buildings is commensurate with their prominent position opposite the Pier and overlooking the Esplanade and Waterloo Square;
- (21) Buildings are the only remaining examples of grand Victoria seaside architecture on the east side of the square;
- (22) Substantial harm to the Conservation Area and setting of the Grade II Listed Pier;
- (23) No application for redevelopment therefore site will remain vacant for some time;
- (24) Conflict with NPPF paragraphs 191, 194, 195, 197, 201;
- (25) Conflict with Arun Local Plan policy HER DM2 and HER DM3; and
- (26) Conflict with Council's Conservation Areas SPG.

COMMENTS ON REPRESENTATIONS RECEIVED:

The final comments of the Town Council are noted.

The following comments are offered in respect of the third party objections:

- (1) This is a valid material planning consideration;
- (2) Noted however it should be highlighted that there is a similar style of building on the High Street in Bognor Regis;
- (3) Noted however the planning officer does not feel pressured into making a decision;
- (4) This is a valid material planning consideration;
- (5) Noted;
- (6) This is a valid material planning consideration;
- (7) Agreed;
- (8) The identity of the landlord or tenant and the actions that they are liable for are not valid material planning considerations. However, it is noted that paragraph 191 of the National Planning Policy Framework (NPPF) states that: "Where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision";
- (9) Noted however, this application does not propose any replacement scheme;
- (10) Noted;
- (11) Noted;
- (12) This is a valid material planning consideration;
- (13) These figures are noted but are disputed by the applicant;
- (14) This is a valid material planning consideration;
- (15) This is a valid material planning consideration;
- (16) Noted;
- (17) Agreed;
- (18) Agreed;
- (19) Noted;
- (20) Noted;
- (21) Noted;
- (22) This is a valid material planning consideration;

- (23) This is a valid material planning consideration;
- (24) This is a valid material planning consideration;
- (25) This is a valid material planning consideration; and
- (26) This is a valid material planning consideration.

The applicant has made several submissions on the application in response to the comments of third parties:

- Building is a dangerous structure and unsafe;
- There is no urgency with the application;
- This is a dangerous structure which only has limited temporary supports to the failing beams;
- There is a high level of corrosion on the prime structural beams over the ground floor;
- Significant water and salt ingress has occurred;
- Lives could well be at risk due to action not being taken;
- Arun DC own the building and have left previous tenants to allow this building to decay to its current level;
- The building is not in a safe condition and is beyond economic repair and works to fully restore the building would result in the loss of lots of historic features and elements of fabric; and
- In order to provide a 'full breakdown of the costs of making good/repairing the building & dealing with the issues' will involve a good number of other people and disciplines - to cost all the repairs will require extensive time and extensive costs as there is a lot to do even before you start costing the works.

Since this report was first written, an additional letter from "Save Britain's Heritage" has been received which requests that extra time be given to SAVE to allow them to assess whether the building can be safeguarded and secured in order to prevent unauthorised access. This letter was received on 11th February and it is understood that SAVE have now visited the site.

CONSULTATIONS

Environment Agency
 Surface Water Drainage Team
 Conservation Officer
 Environmental Health
 Estates Manager
 Economic Regeneration
 Ecology Advisor
 Engineers (structural)
 Environmental Health
 Engineers (structural)
 Conservation Officer
 Engineers (structural)

CONSULTATION RESPONSES RECEIVED:

ADC CONSERVATION OFFICER: Raises objection on the grounds that the loss of those buildings fronting on to Waterloo Square (and the lack of an approved redevelopment scheme) will have a significant impact upon the conservation area, and cannot be supported as proposed. However, does not consider there to be any harm to the Norfolk Street frontage. Also makes the following points:

- The demolition of the buildings has the potential to affect the character & appearance of Waterloo Square & Norfolk Street
- 2-4 Waterloo Square are both locally listed and are also located within the "The Steyne" Conservation Area - as such buildings are considered to be heritage assets for the purposes of planning policy;
- The Conservation Area statement for Waterloo Square identifies that there is a variety in age, style and size of the buildings which contribute towards the established character of the area;
- The buildings are an attractive pair of 2 and 3 storey structures with a Dutch or Flemish gable facade, and are located within a prominent part of the conservation area;
- They are the only buildings within the conservation area that appear to have such a facade treatment, which increase their attractiveness to the immediate local area particularly in comparison with a more modern building adjacent;
- The height of the buildings means that they form an important element of the streetscene;
- The absence of a building on the neighbouring plot further emphasises the importance of the buildings considered as part of this application;
- The elevation fronting on to Norfolk Street detracts from the character of the conservation area, and redevelopment of this element offers the opportunity to enhance the quality of the area;
- Guidance is provided within the Arun Local Plan in policies HER DM2 and HER DM3;
- It is considered that the current proposal does not comply with the policy in that the structure to be demolished makes a contribution to the special character or appearance of the area;
- In addition, the current application relates to the demolition of the building only which will leave yet another area of undeveloped land within the conservation area and further harm the established character of the area;
- It cannot therefore be demonstrated that the removal of the structure and its subsequent replacement would lead to the enhancement of the area;
- Redevelopment of Locally Listed Buildings or Structures of Character will only be supported where they cannot be put to a beneficial use or re-use - is there evidence of the consideration of alternative uses?;
- A case has been made that the buildings are structurally unsound but the Conservation Officer is unable to consider this;
- A judgement will need to be made by the planning department as to whether the condition of the building is such that it outweighs any harm to the character and appearance of the conservation area;
- It is also not clear if any attempt has been made to retain the attractive front facade of the building so that it can be incorporated in to a future, yet approved scheme for this part of the Square; and
- Such an approach might be the best way of maintaining some of the established character of the area, whilst acknowledging any structural issues with the building.

ADC STRUCTURAL ENGINEER: Comments as follows:

- Note that the buildings are in very poor condition and that this is clearly a dangerous structure;
- The temporary supports are in their name temporary and will only offer short term relief to the decaying steelwork;
- Although the Dutch gables have historical merit the supporting structure is beyond its lifespan and any failure of the temporary support/steel structure would result in a large debris field resulting in partial closure of the road apart from potential/possible injury;
- Controlled demolition will allow the site to be regenerated and returned to full use and enable safe removal of hazardous materials;
- The temporary works (needling etc.) assumes that a willing contractor is found who is prepared to enter the site, make it safe and carry out the temporary works;
- There is also the distinct possibility that the contractor will find further problems forcing further changes to the temporary works and increasing costs further;
- Temporary works will only provide short term stability of the building and are designed around the future long term solution for the building/site; and

- This means decisions on the sites future use and possible changes to its general arrangement need to be agreed prior to installation.

ADC ECONOMIC DEVELOPMENT: State that they are in support of this application as they are keen to see this area redeveloped and would suggest early engagement with the Conservation Officer.

ADC BUILDING CONTROL: Have commented informally to say that:

- Building Control are actively monitoring the building and will continue to do so;
- There has been no material change to the state or condition of the exposed beam in question since Building Control were first made aware of the concerns with the building;
- Building Control have only assessed the building visually from the road and as such there may be other structural elements which are hidden from view;
- The gallow brackets supporting the front balcony to no. 2 are considered adequate and it is not considered that the balcony represents any imminent danger of collapse;
- Rotting joists/ joist ends were observed to no. 4;
- There is potential for high winds to force the removal of a cantilever flat roof canopy to the north end of the facade;
- It will be necessary to prop the projecting bays to support the front facade & balcony as the condition of the original cantilever floor timbers are poor and the quality of the repairs are questionable; and
- Once this is complete, it is considered that there should be no issue with any potential structural danger from either properties under normal weather patterns.

ADC ENVIRONMENTAL HEALTH: Raise no objections but consider that conditions should be imposed in respect of contamination (4 conditions) and management of the demolition process.

Environmental Health were then given further time (until 22/11/18) to comment on the additional "Method Statement & Risk Assessment" and "Asbestos Refurbishment Survey" but did not respond.

COUNCILS ECOLOGIST: Raise no objections. Require that any future lighting on the site be designed to minimise harm to bats and that any works to vegetation be carried out outside of the bird breeding season.

COMMENTS ON CONSULTATION RESPONSES:

All comments noted.

The applicant has made several submissions on the application and the following relate specifically to the comments of consultees:

- A number of the consultees have commented on the state of the building now, but not previously and if the building is so important to the history of the town and conservation area then quite frankly action to preserve it should have occurred years ago; and
- The Conservation Officer comment about looking at alternatives uses for the building is a bit irrelevant along with a number of the other comments given as to the condition of the buildings - currently the building has no alternative use and should not be used or occupied at all.

POLICY CONTEXT

Designations applicable to site:

Within the Built Up Area Boundary;

Class C Road
 No Public Sewer;
 The Steyne (Bognor Regis) Conservation Area;
 Building of Character;
 Part Flood Zones 2/3;
 Pagham Harbour Zone B; and
 Within 2km buffer of Felpham and Bognor Regis Reef SSSI's.

DEVELOPMENT PLAN POLICES

Arun Local Plan 2011 - 2031:

HERSP1	HER SP1 The Historic Environment
HERDM2	HER DM2 Locally Listed Buildings or Structures of Character
HERDM3	HER DM3 Conservation Areas
QEDM4	QE DM4 Contaminated Land
SDSP2	SD SP2 Built-up Area Boundary

<u>Bognor Regis Neighbourhood Plan 2015 Policy 1</u>	Delivery of the Vision
Bognor Regis Neighbourhood Plan 2015 Policy 2	Promoting the Seaside Identity
Bognor Regis Neighbourhood Plan 2015 Policy 3	Old Town Restaurant and Cultural Quarter

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD2	Conservation Areas
SPD9	Buildings or Structures of Character

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

The 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.

Bognor Regis Neighbourhood Development Plan policies 1, 2 and 3 are considered to be relevant.

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 the policies in the development plan in respect of the demolition of locally listed buildings and buildings within a Conservation Area in that the proposal will result in the loss of a designated heritage asset with no redevelopment scheme in place to detriment of the character and appearance of the Conservation Area.

Section 16(1) of the Planning (Listed Buildings & Conservation Areas) Act 1990 states:

Where the building is located in a Conservation Area, Section 71(1) of the Act states:

In the exercise, with respect to any buildings or other land in a Conservation Area of any powers (under the Planning Acts), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

The proposal is considered to conflict with these criteria in that it is considered to materially affect the character of the Conservation Area due to the loss of the heritage asset and there being no redevelopment scheme in place.

OTHER MATERIAL CONSIDERATIONS

A Demolition Order under the Housing Act 1985 has recently been served by the Council which requires that the buildings be demolished in order to prevent future unauthorised residential occupation of a building which is affected by several category 1 & 2 hazards.

Where a demolition order under the Housing Act is served the demolition of the building can be permitted development as per Part 11, Class B of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). This states that:

"Development is not permitted by Class B if:

- (a) the building has been rendered unsafe, uninhabitable by the action or inaction of any person having an interest in the land on which the building stands and and it is practicable to secure safety or health through repair works;
- (b) the demolition is "relevant demolition" for the purposes of section 196D of the TCPA; (demolition of an unlisted etc building in a conservation area)
- (c) the building is used, or was last used for a purpose falling within Class A4 (drinking establishment) of the schedule to the Use Classes Order, including a purpose as described in class AA (drinking establishments with expanded food provision) of Part 3 of Schedule 2 to this Order..

In respect of (b), 'Relevant Demolition' is defined in Section 196D(3) of the Town and Country Planning Act 1990 (TCPA) which states that 'relevant demolition' is the demolition of a building that is within a conservation area but is not a building to which section 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 does not apply. Section 75 of the Planning (Listed Buildings and Conservation Areas) Act 1990 then sets out cases where s74 does not apply and includes (d) "buildings in relation to which a direction by the SoS is for the time being in force". It is then necessary to consider the "Conservation Areas (application of section 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990) Direction 2015" which includes "any building to which a demolition order made under Part 9 of the Housing Act 1985 applies".

This is an important material consideration and would negate any refusal of this planning application.

It is understood that the Demolition Order can only be withdrawn if an application is made and duly approved to repair and rebuild the buildings such that the identified category 1 and 2 hazards are no longer present. The property leaseholder has commenced the process of preparatory works in advance of demolition (removal of asbestos, removing utility connections) and demolition had started when a site visit took place on 4th February.

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 and provided it is in accordance with other policies of the Local Plan, in this case covering the impact of demolition on heritage assets, contamination risks and the impact on the Bognor Regis Old Town Restaurant & Cultural Quarter designation.

IMPACT ON HERITAGE ASSETS:

The buildings known as 2-4 Waterloo Square form part of an important frontage within the Bognor Regis Steyne Conservation Area. In addition, both buildings are designated within adopted supplementary planning guidance as buildings of character (in other words, locally listed). As such the buildings are designated heritage assets located within a designated heritage asset.

The National Planning Policy Framework (NPPF) is relevant as it sets out guidance on the assessment of application affecting heritage assets. Paragraphs 190-195, 197-198 & 201 are considered to be relevant to this determination with the following paragraphs particularly noteworthy:

191 - Where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.

195 - Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- (a) the nature of the heritage asset prevents all reasonable uses of the site; and
- (b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- (c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
- (d) the harm or loss is outweighed by the benefit of bringing the site back into use.

198 - Local planning authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.

It is not considered that the proposal would be in accordance with this guidance as there is no redevelopment plan in place and it is not considered that harm to the public from demolition of a building considered to be unsafe, represents a substantial public benefit which would outweigh the loss. It is also noted that there are no provisions within the NPPF for the consideration of structural issues.

Arun Local Plan policies HER SP1, HER DM2 and HER DM3 are all relevant and these are summarised below:

Policy HER SP1 states that designated and non-designated heritage assets must be conserved and enhanced in a manner appropriate to their significance and contribution to the historic environment. It goes on to state that proposals involving substantial harm to a conservation area will not be permitted unless it can be demonstrated that the loss or harm achieves substantial public benefits.

Policy HER DM2 states that applications will only be granted for development which results in the loss of existing Locally Listed Buildings or Structures of Character where it can be demonstrated that the building or structure cannot be put to a beneficial use or re-use.

It is not considered that there is any conflict with policy HER DM2 as the supporting evidence is clear that the building's current state is such that it cannot be safely used by people.

Policy HER DM3 "Conservation Areas" includes the following relevant to demolition:

"Within Conservation Areas, permission for development involving demolition or substantial demolition will only be granted, subject to conditions, if it can be demonstrated that:

- (g) The structure to be demolished makes no material contribution to the special character or appearance of the area; or,
- (h) It can be demonstrated that the structure is wholly beyond repair or incapable of beneficial use; or
- (i) It can be demonstrated that the removal of the structure and its subsequent replacement would lead to the enhancement of the area; and
- (j) Permission has been granted for the redevelopment of the site."

It should be noted that in order to accord with this policy, it is necessary to comply with one of criteria (g) - (i) and also to comply with (j). These criteria will now be analysed:

(g) It is clear from the evidence of the Councils Conservation Officer that the current structure continues to make a material contribution to the special character and appearance of the area. Indeed, the Conservation Officer objects to the proposed demolition on the basis the demolition will have a significant impact upon the conservation area.

(h) It is acknowledged that there are serious limitations given the state of the building to enable a thorough assessment of the internal structure and in turn to be able to properly provide a financial breakdown of the costs for repair to enable any reuse. However, despite being requested to provide a breakdown of costs, the applicant simply stated that in order to provide this will involve a large number of other people and disciplines - and that to cost all the repairs will require extensive time & extensive costs.

The evidence of the Councils Structural Engineer is that the building is currently unsafe, that temporary supporting work will only offer short term relief and that the implementation of temporary internal works will require a contractor to be found who is prepared to enter and work within the structure.

The Councils Building Control section are actively monitoring the building but consider that once further external temporary support measures are implemented, that there should be no issue with any potential structural danger under normal weather patterns.

It is not considered that it has been proven that the structure is wholly beyond repair. However, it is clear that in its current state, it is incapable of beneficial use. For this reason, it is considered that the proposal would comply with criteria (h).

(i) It is clear from the evidence of the Councils Conservation Officer that the removal of the structure

would not enhance the character and appearance of the Conservation Area. Furthermore, there is no replacement/redevelopment scheme in place so no current assessment can be made as to whether this would lead to an enhancement of the area.

It is also noted that the applicant has not responded to the suggestion by the Councils Conservation Officer and by interested parties as to whether the building's facade could be saved and incorporated into a future redevelopment scheme. It is considered that this has the potential to have a positive impact on any redevelopment scheme.

(j) There is no planning permission in place for the redevelopment of the site and therefore, the proposal clearly conflicts with criteria (j) and on this basis, also conflicts with the overall requirements of policy HER DM3.

It is noted that the Councils supplementary planning guidance note on Conservation Areas is a material consideration in the determination of this application. It states that demolition will only be allowed where the removal of the structure and its subsequent replacement would lead to the enhancement of the area - and also where planning permission has been given for a redevelopment scheme.

In addition to the above, Bognor Regis Neighbourhood Development Plan (BRNDP) policies 1 and 2 are both relevant. These state that any alteration of designated/non-designated heritage assets must also (a) seek to restore and boost the town's seaside identity; and (b) support the delivery of relevant Neighbourhood Development Plan Objectives and the vision for Bognor Regis. It is not considered that demolition on its own (without a redevelopment plan being in place) will achieve these aims and therefore, the proposal is in conflict with these two policies.

OTHER RELEVANT POLICY CONSIDERATIONS:

The site forms part of the "Old Town Restaurant & Cultural Quarter" designation as set out in the BRNDP. As such, policy 3 is relevant and part of the policy states that changes of use from restaurant and cafe use (A3) to other uses will be resisted. It is not clear exactly what the former ground floor uses were although they were clearly commercial. However, this proposal is for demolition not change of use and there is every possibility that the future redevelopment of this site will include uses appropriate to the BRNDP designation. As such, it is not considered that the proposal conflicts with this policy.

Arun Local Plan policy QE DM4 "Contaminated Land" states that:

"Prior to any development, the Council will require evidence to show that unacceptable risk from contamination will be successfully addressed through remediation without undue environmental impact during and following the development."

Council Environmental Health Officers have highlighted the likelihood of the site/building being contaminated and have requested that any approval be conditioned to require contamination survey work and mitigation measures. The applicant has responded by submitting an asbestos survey and a "Method Statement and Risk Assessment" which were passed to Environmental Health Officers for consideration however, no further comments were provided.

It is considered that if demolition was allowed (or was forced to take place due to urgent health & safety considerations) then the demolition contractor would be required to follow appropriate health & safety legislation in respect of asbestos. Furthermore, land contamination issues would be most appropriately dealt with if and when the building is demolished as part of a redevelopment scheme as then safe access would be possible to the ground and mitigation measures could be implemented without risk to contractors. Accordingly, it is not considered that there is any conflict with policy QE DM4.

SUMMARY:

It is considered that the above analysis shows that the proposed demolition is in conflict with adopted development plan policy and national policy guidance in that there is no redevelopment scheme in place and as such, the demolition of the buildings will have a harmful impact on the character and appearance of the Conservation Area. In addition, the proposed demolition will not accord with the visions and objectives of the Bognor Regis Neighbourhood Development Plan.

However, is being demolished due to the presence of the Demolition Order served under the Housing Act. This being the case, a refusal of planning permission would not preserve the building from demolition. It is considered that this is an important material consideration in the determination of this application and that more weight should be attributed to this than with the conflict with adopted policy. For this reason, it is recommended that planning permission be granted in accordance with the following informatives.

CONDITIONS:

On the subject of the conditions requested by Environmental Health (EH), first it should be noted that in response to the EH comments, the applicant provided a "Method Statement & Risk Assessment" and "Asbestos Refurbishment Survey". EH were invited to consider these documents but did not respond.

Second, it should be noted that the Demolition Order has also been served by part of Environmental Health and that the Order includes requirements to remove asbestos, remove and dispose of waste, ensure that the structural integrity of the adjacent building is not harmed, ensure that demolition is in accordance with Building Regulations and that once the building has been demolished that the site is secured by hoardings. Third, it is a material consideration that demolition can proceed without planning permission and therefore any planning conditions imposed would not have to be discharge or followed. It is therefore not considered appropriate to impose the requested conditions.

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) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval 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

APPROVE

- 1 **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 assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 2 **INFORMATIVE:** All demolition works are to be notified to the local authority's building control department with at least 6 weeks' notice. This gives time to notify all the statutory undertakers of the works, any adjoining owners/occupiers and any other parties of which could be affected by the works. There are a number of statutory undertakers to be notified. For further information and a list of these statutory undertakers, please email bldg.con@arun.gov.uk. The notice issued is served under Section 81 of the Building Act 1984.