

Recommendation Report for Planning Permission

REF NO: BR/229/17/PL

LOCATION: Land to rear of 41 - 47
Pevensey Road
Bognor Regis
PO21 5NY

PROPOSAL: Erection of 3 No. dwellings, 1 No. detached garage, parking & alterations to existing access & driveway (resubmission following BR/200/16/PL).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

It is proposed to redevelop the existing gardens to nos. 43 and 45 Pevensey Road with a terrace of three dwellings. Two of these will have link attached garages and the third, a stand along garage. All dwellings are two storeys but some of the first floor accommodation is within the roof of the dwelling/roof of the attached garage. The dwellings will also have ground floors set at 6.72m AOD and therefore the houses will have raised floors of beam and block construction that will allow any flood water to flow beneath as necessary.

All dwellings have three designated bedrooms but two have an additional study room above the attached garage. Parking is to be provided at a rate of 2 per dwelling (inc garage) and 4 visitor spaces. New/replacement boundary treatments to be 1.8m high timber fencing. It is proposed to remove seven category C trees, one category U tree and five category C tree groups. The application also proposes to remove hard standing and demolish several built items including 43's side/rear single storey extension, 43's shed (as located to the rear of 41) a garage/annex plus greenhouse & shed located in the rear garden. The application originally sought permission for 4 dwellings but the scheme was reduced in May 2018.

The applicant has proposed the following flooding mitigation measures:

- Finished floor levels of 6.72m AOD (some 0.6-0.8m above ground levels);
- Garaging at ground floor and raised floors of beam & block construction for the dwellings;
- Demolition of buildings/removal of hard standing to compensate for lost flood storage;
- Additional storage provided in an open pond with water levels maintained less than the banks;
- Use of permeable paving with flood storage underneath; and

- If high winter ground water levels, then for draining roof areas, either shallow geo-cellular structures will be installed or a controlled discharge to the piped watercourse running through the rear of the site.

SITE AREA	0.23 hectares.
RESIDENTIAL DEVELOPMENT DENSITY (NET)	13 dwellings per hectare.
TOPOGRAPHY	Predominantly flat but the land falls towards the centre of the site and then rises again to the rear of both plots by approximately 1m. The land also rises by around 0.3m to the north western boundary with Pevensey Road. The raised area at the rear roughly corresponds with the location of a piped land drain crossing the site.
TREES	There are a number of trees as detailed within the submitted tree reports. A Tree Preservation Order covers a group of trees (1 Pine, 1 Oak, 1 Willow) spread across the rear gardens of 45 & 47 and two individual trees (T1 Walnut, T2 Ash) located within the rear garden of 39 but overhanging the application site.
BOUNDARY TREATMENT	No. 45 has a low 1m high brick wall to 47 and a low 1m high timber fence to the shared driveway. There is then a 1m high block work wall to the rear of 47. The wider garden areas and also the private garden area to 43 have 1.8m high closed boarded fencing, hedging and trees.
SITE CHARACTERISTICS	Gardens to nos. 43 and 45 Pevensey Road but also including land located to the rear of nos. 41 and 47. Access is via a gated shared driveway between 43 & 45 which leads to a small area of hardstanding and then the well established gardens. Nos. 43 and 45 are both two storey semi detached dwellings, both with rear conservatory extensions (43 also having a single storey side extension). No. 45 also has a flat roofed two storey extension. No. 43 has light orange bricks and a mixed clay tile roof. No. 45 is rough rendered to all elevations also with a clay tile roof. Both dwellings have an enclosed area of private garden roughly level with that of the neighbouring properties (41 & 47) with then access to the larger rear gardens. There are a few buildings in the rear garden including a double garage, greenhouse, summerhouse and a few sheds. A pond was identified within the site (located in the very rear south western corner) at the time of application BR/126/08 and has also been highlighted during the course of this application by residents who have suggested that it has been partially filled in and covered up. However, it was not clear from the site visit due to the overgrown/well vegetated nature of the some of the edges to the site. There were also fox holes within the gardens suggesting the presence of a Den.

There is frontage parking for both properties (2 spaces for 43

CHARACTER OF LOCALITY

& 1 space for 45).

Residential. Characterised by detached and semi-detached properties of varying designs. Predominantly two storeys but no. 39 is a bungalow. The following was observed regarding adjacent properties:

41 - Two storey semi with a flat roofed two storey rear extension which is level with the rear of 43 and contains ground floor principal and first floor bedroom windows. Uncharacteristically short rear garden;

43 - Two storey semi with a pitched roof two storey rear extension which is level with the rear of 41 and contains ground floor principal and first floor bedroom windows. Also rear projecting conservatory extension. Various windows on flank elevation adjacent to the shared access;

45 - Two storey semi with a flat roof two storey rear extension which contains ground floor principal and first floor bedroom windows. Also rear projecting conservatory extension. Various windows on flank elevation adjacent to the shared access;

47 - Two storey semi with a part flat roofed two storey rear extension which matches with the extent of 45's two storey rear extension. Ground floor principal and first floor bedroom windows. Uncharacteristically short rear garden;

49-55 Pevensey Road - Two storey semi-detached properties with ground floor principal and first floor bedroom windows with the latter only just visible due to screening along the south western boundary; and

22-26 Arun Road - Two storey semi-detached properties with ground floor principal and first floor bedroom windows. Ground floor windows screened by fencing but first floor bedroom/bathroom windows clearly visible from the rear of the site.

RELEVANT SITE HISTORY		
BR/200/16/PL	Erection of 4 No. dwellings & 2 No. detached garages with alterations to existing access & driveway.	Withdrawn 22-12-16
BR/40/15/T	Reduce branches on east side of 1 No. Oak tree by 2.5m.	ApproveConditionally 21-04-15
BR/27/13/	Rear two storey extension.	ApproveConditionally 19-03-13

BR/116/08/	Demolition of existing houses (2 No) & outbuildings and garage, residential development of 10 houses, new garage block, 17 No parking spaces and new access drive.	Refused 23-07-08 Appeal: Dismissed 22-05-09
BR/254/07/	Residential development of 12 No houses.	Refused 24-10-07
BR/75/98	New garage to side of dwelling.	ApproveConditionally 19-06-98
BR/96/97	Bedroom & lounge extension. Conservatory.	Refused 10-06-97 Appeal: Allowed 07-11-97
BR/484/89	Two bedrooms and bathroom extension to existing 1st floor	ApproveConditionally 13-11-89

Application BR/116/08 sought permission for a residential development of 10 houses within the same site area. It was recommended for approval by officers but refused by the Development Control Committee on the grounds of harm to trees and overdevelopment. An appeal was then dismissed but solely on the grounds of loss of trees of public amenity value. The Inspector made it clear that there was no harm to local character and no harm to neighbours living conditions (either through overlooking, loss of light or vehicular noise).

It should be noted that the proposed site and other parts of Pevensey Road were badly affected by surface water flooding during June 2012.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Bognor Regis Town Council

"Objection - Members maintain their previous objections to this application on the grounds of access to the site is narrow which will cause difficulties for emergency vehicles. In addition, the site is home to a number of trees with TPOs, and protected species - newts, hedgehogs, bats and slowworm. Concern too was expressed about an increase in surface water flooding to existing properties, deemed high risk by WSCC. It was also felt that the site is unsuitable for such a large development due to the number of TPO's, the protected species and a hidden pond. Furthermore, members highlighted GEN7 of the 2003 Local Plan which states that development will be permitted provided it does not have an unacceptable adverse impact on adjoining occupiers. Finally, Members expect this application to come before the Development Control Committee for decision."

A total of 28 letters of objection have been received with 13 of these received since the application was

re-advertised. Grounds of objection as follows:

- (1) Impact on wildlife (foxes, hedgehogs, bats, slow worms, newts, moths, butterflies) and loss of pond;
- (2) TPO trees must not be removed;
- (3) Future pressure from residents to prune or fell trees;
- (4) Proposed buildings and parking areas too close to high amenity trees;
- (5) Root Protection Areas not large enough;
- (6) Payment for Pagham Harbour is to compensate for harm to trees;
- (7) Loss of daylight to surrounding properties;
- (8) Loss of privacy to surrounding properties;
- (9) Overbearing impact due to higher floor levels;
- (10) Increased traffic & parking in the area to detriment of child & cyclist safety;
- (11) Access too narrow to allow vehicles to pass;
- (12) Access is not pedestrian friendly;
- (13) Access is too close to Pevensey Road/Frith Road junction;
- (14) Insufficient room for bin storage to each side of the access;
- (15) No street lighting proposed to the access;
- (16) Planning history demonstrates that unacceptable to develop this site;
- (17) Flooding of adjacent properties due to high surface water levels, loss of flood storage land & raising of levels;
- (18) The piped land drain between the site and Arun Road is higher than the site and will not cope with more surface water - it has collapsed/been blocked before - thus affecting adjacent properties;
- (19) Houses may be raised but cars & pavements will still flood;
- (20) No up-to-date topography survey for the back gardens;
- (21) Offer of a new pond will not mitigate surface water flooding;
- (22) Removal of buildings & hard surfaces will not compensate for three new houses;
- (23) Garages with studios above have been proposed in place of the removed 4th dwelling;
- (24) Arun DC continuing to negotiate on the application despite objections from tree officer & drainage engineer;
- (25) Impact on house prices;
- (26) Insufficient foul sewer capacity;
- (27) Out of character with the streetscene;
- (28) Garden of 45 has not been maintained;
- (29) Planning officer needs to visit to assess land levels; and
- (30) Not possible to add screening to boundary with Arun Road due to potential for damage to the land drain.

COMMENTS ON REPRESENTATIONS RECEIVED:

The following comments are made in response to the Town Council comments:

- (A) Highway safety, tree and flooding issues are considered in the reports conclusions;
- (B) The application was accompanied by a Phase 1 ecology survey and this has been assessed by the Councils ecologist who has raised no objection;
- (C) Policy GEN7 no longer exists however there is equivalent advice within policy D DM1 of the Arun Local Plan; and
- (D) In accordance with the council's scheme of delegation, it would only be necessary to take this to a Development Control Committee if the recommendation was to approve.

Many of the issues raised are discussed/analysed in the conclusions section of this report. The following comments are made in respect of the other objections:

(6) Notwithstanding that the applicant has not been agree the legal agreement to secure this payment, it is required to mitigate the impact of three new dwellings on the Pagham Harbour Special Protection Area. It is not compensation for the loss of trees;

(15) It is not considered necessary to require new street lighting on the access which is located between two houses and so will benefit from light from these two properties. It is also not considered that the access is sufficiently long or wide to allow vehicles to reach any dangerous speed;

(16) The previous 2008 appeal for 10 houses was dismissed solely on the grounds of loss of trees of public amenity value. The Inspector made it clear that there was no harm to local character and no harm to neighbours living conditions (either through overlooking, loss of light or vehicular noise).

(20) A topographical survey and site sections were provided on the 31st May 2018;

(24) It was agreed that the applicant be given the opportunity to try to resolve the concerns as this is a resubmission application and as the principle of the development is acceptable;

(25) It is not possible to consider the impact on house prices through the planning process;

(26) Southern Water have raised no objections to the application;

(28) If this development were approved then the site would be tidied up therefore this is not a material planning issue; and

(29) The planning case officer visited the site on 13/10/16 in connection with the withdrawn application. An assessment was made of the land levels and several photographs were taken.

CONSULTATIONS

Engineers (Drainage)

Engineering Services Manager

Southern Water Planning

Ecology Advisor

Arboriculturist

WSCC Strategic Planning

Surface Water Drainage Team

Engineers (Drainage)

Arboriculturist

Engineers (Drainage)

CONSULTATION RESPONSES RECEIVED:

SOUTHERN WATER - No objections. Require a formal application for a connection to the foul sewer to be made by the applicant or developer. Request imposition of an informative. Require that the applicant ensure that arrangements exist for the long term maintenance of the SUDS facilities to avoid entering the foul sewer. Also note that it is possible that a sewer now deemed to be public could be crossing the property.

WSCC FLOOD RISK MANAGEMENT - Note the following:

(1) Current uFMfSW (Updated Flood Map for Surface Water) mapping shows the proposed site to be at 'High' risk from surface water flooding with a flood depth of 600mm. The site was badly affected by surface water flooding during June 2012. House construction should be flood resilient not flood resistant. In order to not reduce the current flood storage area within the site, any reduction will need to be off-set with compensation for the loss of storage. Any existing surface water flow paths across the site must be maintained.

(2) A wholesale site level rise via the spreading of excavated material should not be allowed. The site is

currently low lying and should remain so after construction so as not to increase flood risk to adjacent properties.

(3) The area of the proposed development is shown to be at 'High risk' from ground water flooding based on the current JBA Risk Management flood risk maps (which form part of the Councils Strategic Flood Risk Assessment). The same mapping shows that the ground water levels could be between 0.025m and 0.5m below the surface. This means the general geology in the area may not be suitable for infiltration/soakaways.

(4) Where the intention is to dispose of surface water via infiltration / soakaway, these should be shown to work through an appropriate assessment carried out under Building Research Establishment (BRE) Digest 365.

(5) Current Ordnance Survey mapping shows a short section of ordinary watercourse within the boundary of the proposed site which is not shown to be retained. It should not just be filled in, as it currently reduces flood risk to the adjacent properties by storing surface water during heavy rainfall events. No development should take place within 5m of any watercourse.

(6) Historic Ordnance Survey mapping does show that an historic ordinary watercourse once ran along the southern boundary of the site and that this has now been culverted.

WSCC HIGHWAYS - Did not raise any highway safety or capacity concerns to the original scheme for 4 x dwellings. They consider that the reduced scale scheme will result in less vehicular movements to and from the site. Note that each dwelling will still be allocated two car parking spaces with an additional four spaces for visitor/overspill parking. State that the applicant has demonstrated that the amended internal layout can still accommodate a fire appliance turning on site to exit onto Pevensey Road in a forward gear. Note that the access road will narrow to 3.5m however, there is space available for a car to wait at the entrance in the instance of a car exiting the site at the same time. Advise that an Access Protection Line is included across the existing dropped kerb to deter parking across the access point. State that the previous comments on BR/200/16 apply in respect of vehicle visibility splays & pedestrian splays and that these were found to be suitable. Conditions recommended in respect of: construction management plan, cycle parking, pedestrian visibility and vehicle parking & turning to be in accordance with the approved plan.

ADC DRAINAGE ENGINEERS - Have commented several times throughout this application but maintain their original objections on the grounds of increased risk of surface water flooding to neighbouring land/properties. Comments summarised as follows:

(1) Flooding affected properties in June 2012 and the site is within an area of high surface water flood risk.

(2) Flood risk should not be increased to others.

(3) Have concerns with the proposed use of under building flooding in terms of air bricks blocking up, confined space working to clear out the sub floor area after a flood event, also contaminated water/debris being left under a house and the need to undertake major repairs following a flood;

(4) The flood mitigation volumes still rely on the removal of structures, where insufficient detail regarding their construction to enable volumes to be checked has been provided.

(5) The flood mitigation measures also include works to the pond but insufficient detail has been submitted.

(6) Soakaways must be investigated for surface water disposal and conditions ENG2B, ENGD4A and ENGD6A imposed in respect of surface water disposal/SUDS.

(7) Note the culverted surface water drain running along the southern boundary of the site and state that no trees can be planted here.

(8) Note that there is a levels inconsistency between the existing rear gardens of number 45 and 47 Pevensey Road and there needs to be confirmation that no changes to ground levels are proposed as part of the development.

Latest comments (12/10/18) are that: "The remaining issues are mainly regarding flood routing and capacity for both surface water from the development and compensatory flood storage. The proposed compensatory storage would be set higher than the areas where greatest depths occur, and it would not intercept some of the main flood routes. The plan would therefore be reliant on flooding the rear gardens to a depth that allows water to then get in to the compensatory storage area. I am not convinced that this will occur without flooding occurring off site."

ADC TREE OFFICER - Raise objection on the grounds of intense shading of proposed gardens from existing retained trees resulting in pressure from future residents to prune or fell these trees. Also question the viability of applying a 'No Dig' situation adjacent to trees T11 & T12 for the parking bays. Detailed comments summarised as follows:

- (1) There are trees both on and off this site of value which has been recognised by ADC in the making of a TPO to cover T2; T12; T13 and T20 (numbering taken from the PJC tree survey).
- (2) Consider it very difficult to justify making any further TPO's.
- (3) RPA's have now been shown correctly.
- (4) The amendment (4 to 3 houses) has resolved a number of issues.
- (5) The building on plot 3 will be shaded by off-site trees in the garden of No 39 (primarily TPO trees T11/12 & T2) so there will still be pressure to prune or fell that would be difficult to resist on application.
- (6) Although plot 1 now has a larger garden but there will still be shading from trees T19 & T20 (T20 being a TPO) and thus pressure to prune or fell in the future.
- (7) Whilst there is provision within BS5837 to mitigate the effects of the car parking within the RPA's of T11 & T12, it would be better if this was designed out rather than use a 'make it fit' approach.
- (8) Also concerned as to whether the new levels would allow the proposed 'No Dig' situation to be applied.

COUNCIL ECOLOGIST - No objections. State the following:

Reptiles - A precautionary approach is proposed in respect of reptiles and this should be conditioned.

Bats - A condition will be required to ensure that bats are not adversely affected by new lighting

Nesting Birds - A condition will be required to ensure that works to trees take place outside the bird breeding season or are otherwise supervised by an ecologist.

Foxes - The fox earth within the garden of No 45 must remain undisturbed to avoid damage as detailed within the proposed mitigation

Enhancements - Require a number of enhancements to be secured by condition.

COMMENTS ON CONSULTATION RESPONSES:

The comments are all noted.

POLICY CONTEXT

Designations applicable to site:

Within Built Up Area Boundary;

High Risk Area for Surface Water Flooding;

No Public Sewer;

Tree Preservation Order ref BR/2/08;

Pagham Harbour Zone B

DEVELOPMENT PLAN POLICES

DDM1 D DM1 Aspects of form and design quality

DDM2	D DM2 Internal space standards
DSP1	D SP1 Design
ENVDM2	ENV DM2 Pagham Harbour
ENVDM5	ENV DM5 Development and biodiversity
HDM1	H DM1 Housing mix
HSP1	HSP1 Housing allocation the housing requirement
SDSP1	SD SP1 Sustainable Development
SDSP2	SD SP2 Built-up Area Boundary
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVDM4	ENV DM4 Protection of trees
QEDM1	QE DM1 Noise Pollution
QEDM2	QE DM2 Light pollution
QEDM3	QE DM3 Air Pollution
QESP1	QE SP1 Quality of the Environment
TSP1	T SP1 Transport and Development
WDM1	W DM1 Water supply and quality
WDM3	W DM3 Sustainable Urban Drainage Systems
WDM2	W DM2 Flood Risk
WMDM1	WM DM1 Waste Management

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011-31, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

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.

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton.

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 is considered to comply with relevant Development Plan policies in that it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it have an adverse impact upon the established character of the surrounding area.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

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 2011-2031 and provided it is in accordance with other policies of the Local Plan covering such issues as design & character, flooding, highway safety & parking, impact on trees, ecology, residential amenity, space standards and the impact of the proposal on the Pagham Harbour Special Protection Area (SPA).

Regard should also be had to policy SD SP1 of the ALP which states that: "When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework." It is considered that the site is in a sustainable location within reasonable walking and cycling distance of a range of shops, facilities & services and there are also bus stops within walking distance. Whilst the private car would inevitably be required for some trips, future residents would have a realistic choice of transport options.

It is also noted that the National Planning Policy Framework (NPPF) advocates the effective use of land. Paragraph 118 (d) states that "Planning policies and decisions should: promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing".

DESIGN & CHARACTER:

It is noted that there are local resident objections to the proposal on the grounds of character and impact on the streetscene.

Policy D DM1 of the Arun Local Plan requires that the Council have regard to certain aspects when considering development proposals including:

(1) Character - "Make the best possible use of the available land by reflecting or improving upon the character of the site and the surrounding area, in terms of its scale, massing, aspect, siting, layout, density, building materials (colour, texture), landscaping, and design features.";

(2) Appearance/attractiveness - "Demonstrate a high standard of architectural principles, use of building materials, craftsmanship and hard and soft landscaping to reflect the local area";

(13) Density - "The density of new housing will make efficient use of land while providing a mix of

dwelling types and maintaining character and local distinctiveness. Higher densities will be more appropriate in the most accessible locations. Proposals should take into account the density of the site and its surroundings. The density of large sites should be varied to guard against uniformity"; and

(14) Scale - "The scale of development should keep within the general confines of the overall character of a locality unless it can be demonstrated that the contrary would bring a substantial visual improvement."

Furthermore, policy D SP1 "Design" states that:

"All development proposals should seek to make efficient use of land but reflect the characteristics of the site and local area in their layout, landscaping, density, mix, scale, massing, character, materials, finish and architectural details. Development proposals should have been derived from: a thorough site analysis and context appraisal; adherence to objectives informing sustainable design (inclusivity, adaptability, security, attractiveness, usability, health and wellbeing, climate change mitigation and habitats); and the influence these objectives have on the form of the development. With major developments or allocated sites in the Development Plan, in addition to a Design and Access Statement, a context appraisal, context plan and analysis of the site will also be required."

Paragraph 127 of the NPPF states that "Planning policies and decisions should ensure that developments: (b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; and (c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities)."

This proposal seeks permission for three dwellings in the rear gardens of 43 & 45 Pevensey Road (but actually also encompassing land to the rear of 41-47). This is termed "backland development" and is generally perceived negatively. However, backland development is not in principle inappropriate unless there is also harm to the character of the area. The Inspector who considered the previous appeal in 2009 for a total of 10 dwellings on the same site made it clear that the proposal would not result in any harm to the character of the locality. The Inspector also specifically stated that whilst proposed gardens would be smaller than those of the larger plots on Pevensey Road they would be comparable in size to those immediately adjacent to the north west of the site.

Furthermore, the proposed houses will be set back from the edge of the public highway by about 42m and this mitigates harm to the streetscene as the new dwellings will not be particularly noticeable within the streetscene. It is also noted that the access is an existing feature of the streetscene.

The Inspector also raised no objections to the heights of the previously proposed houses which were to have additional rooms in the roofs. The current scheme is for straight two storey dwellings albeit it with a varied roof form and with some first floor windows set as part of the roof space. It is considered that the design of the dwellings is of a high quality and that the dwellings have been designed as a whole rather than piecemeal. It is noted that the fronts of the dwellings have a stepped back building line and this in addition to the roof dormers and dormer garages add interest to the appearance of the buildings.

The proposal is therefore considered to comply with Arun Local Plan policies D DM1, D SP1 and with the guidance on design within the NPPF.

SURFACE WATER FLOODING:

There are local resident/Town Council objections to the proposal on the grounds of:

- Increased flood risk to adjacent properties;
- Flooding of adjacent properties due to high surface water levels, loss of flood storage land & raising of levels;
- The piped land drain between the site and Arun Road is higher than the site and will not cope with more surface water - it has collapsed/been blocked before - thus affecting adjacent properties;
- Houses may be raised but cars & pavements will still flood;
- Offer of a new pond will not mitigate surface water flooding;
- Removal of buildings & hard surfaces will not compensate for three new houses; and
- Garages with studies above have been proposed in place of the removed 4th dwelling.

The site is not prone to flooding from rivers or seas but is shown within the Council's Strategic Flood Risk Assessment (SFRA) (November 2016) as being part within the Updated Flood Map for Surface Water (uFMfSW) 100-year extent and part, the uFMfSW 1,000-year extent. It is also clear that the site is at high risk from ground water flooding based on the current JBA Risk Management flood risk maps as contained within the SFRA.

Policy W DM2 of the Arun Local Plan states that:

"Development in areas at risk from flooding, identified on the latest Environment Agency flood risk maps and the Council's Strategic Flood Risk Assessment (SFRA) , will only be permitted where all of the following criteria have been satisfied:

- 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 reports prepared as part of the criteria above must take into account contingency allowances, taking climate change into account as set out in Flood Risk Assessments: climate change allowances section of the NPPG.

In locations where strategic flood defence or resilient and resistant construction measures are necessary within the site itself, proposals will be required to demonstrate how measures have been incorporated as an intrinsic part of the scheme in a manner which is compatible with the latest Strategic Flood Risk Assessment.

All development proposals must take account of relevant Surface Water Management Plans, Catchment Flood Management Plans and related Flood Defence Plans and strategies such as the Lower Tidal River Arun Strategy. The council may require financial contributions from development on sites where measures to address flood risk or to improve the environmental quality of watercourses have been identified by these Plans and Strategies."

Furthermore, the NPPF states that:

"Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere" (paragraph 155)

And: "When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
- b) the development is appropriately flood resistant and resilient;
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- d) any residual risk can be safely managed; and
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan."

The Council's Drainage Engineers in consultation with those of West Sussex County Council, have comprehensively assessed this application and have been consulted on every change to the scheme including changes to the flood risk & drainage statements. They have continued to maintain an objection to the proposal essentially on the grounds of the risk that the development will cause flooding off-site. This echoes the concerns of local residents. The applicants have been given ample opportunity to try to resolve the concerns but have not been able to do so.

The proposal is therefore considered to conflict with Arun Local Plan policy W DM2 and the guidance on flood risk within the NPPF.

HIGHWAY SAFETY & PARKING:

There are local resident/Town Council objections to the proposal on the grounds of:

- Access to the site is narrow which will cause difficulties for emergency vehicles;
- Increased traffic & parking in the area to detriment of child & cyclist safety;
- Access is too narrow to allow vehicles to pass;
- Access is not pedestrian friendly;
- Access is too close to Pevensey Road/Frith Road junction; and
- Insufficient room for bin storage to each side of the access.

Arun Local Plan policy T SP1 seeks to ensure that development: provides safe access on to the highway network; contributes to highway improvements & promotes sustainable transport, including the use of low emission fuels, public transport improvements and the cycle, pedestrian and bridleway network. In respect of highway safety, it states that:

"The Council will support transport and development which: Explains how the development has been designed to: (i) accommodate the efficient delivery of goods and supplies; (ii) give priority to pedestrian and cycle movements and have access to high quality public transport facilities; (iii) create safe and secure layouts for traffic, cyclists and pedestrians whilst avoiding street clutter."

In respect of parking, policy T SP1 states that:

"The Council will support transport and development which: incorporates appropriate levels of parking in line with West Sussex County Council guidance on parking provision and the forthcoming Arun Design Guide taking into consideration the impact of development upon on-street parking"

Regard should also be had to paragraph 109 of the NPPF which states that: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

This application has been comprehensively assessed on several occasions by West Sussex Highways who raised no objections to the scheme for 4 dwellings and who therefore consider that the reduced scheme will only result in less vehicular movements. Highways have found no harm to highway safety arising from either the location of the site, the width of the access, the turning available to refuse & emergency vehicles, the parking demands of the scheme versus the proposed provision or the visibility at the junction of the access with Pevensey Road. It would not therefore be sustainable to raise an objection on highway grounds and the proposal has to be considered to comply with policy T SP1.

It is noted that residents also consider that the access is not wide enough to accommodate bin storage on each side. It is accepted that the addition of bins on either side does further narrow the access to about 3.2m but this would still be sufficient to allow a vehicle to pass by without hitting a bin. Furthermore, it would not be inappropriate for residents to instead store their bins to the front of 43 or 45 as this is the situation for other houses on Pevensey Road.

The Council uses the West Sussex Demand Calculator to assess the likely parking demand of residential developments. This has been used to assess the parking demand associated with not only the three new dwellings but also the existing two (43 & 45) and this indicated a demand of 11 spaces based on 2 allocated spaces per dwelling. The proposal includes 4 unallocated visitor spaces therefore a total provision of 16 spaces which more than meets the demand.

The proposal is therefore considered to comply with Arun Local Plan policy T SP1 and it not considered to have an unacceptable impact on highway safety, or a severe cumulative impact on the road network.

IMPACT ON TREES:

There are local resident/Town Council objections to the proposal on the grounds of:

- The site is home to a number of trees with TPOs which are a constraint to development;
- TPO trees must not be removed;
- Future pressure from residents to prune or fell trees;
- Proposed buildings and parking areas too close to high amenity trees; and
- Root Protection Areas not large enough.

Policy ENV DM4 of the Arun Local Plan states that "Development will be permitted where it can be demonstrated that trees protected by a Tree Preservation Order(s), (TPO) identified as Ancient Woodland, in a Conservation Area or contributing to local amenity, will not be damaged or destroyed now and as they reach maturity, unless development:

- a. Would result in the removal of one or more trees in the interests of good arboricultural practice. This shall be demonstrated by the developer following the advice of a suitably qualified person which shall be guided by BS 5837 (2012). Details of any advice received having regard to BS 5837 (2012) shall be submitted, in writing, as part of a planning application; or
- b. Would enhance the survival and growth prospects of other protected trees;
- c. The benefits of the proposed development in a particular location outweigh the loss of trees or woodland, especially ancient woodland."

Although some of the Council Tree Officer's concerns have been resolved as a result of the reduction in

the number of houses (which have in turn resolved some of the local resident objections), the tree officer has maintained an objection to the application. This being twofold. Firstly, on the grounds of the likely intense shading of proposed gardens from existing retained trees which is considered to result in pressure from future residents to prune or fell these trees. Secondly, there is concern as to the proposed use of a 'no dig' methodology for some of the parking bays and the Tree Officer recommends that this instead be designed out.

However, as is clear from policy ENV DM4, an exception can be made for the loss of important trees where the benefits of sustainable urban development outweigh harm to the trees. The first thing to note here is that the scheme will not initially harm any TPO or other high amenity trees. The concern about the car parking near trees T11/12 and T2 does not mean that this will harm the trees and the concerns about shading will not result in any immediate removal or pruning of trees. This proposal is considered to be sustainable urban development and as such there are wider environmental benefits in allowing such a development. Furthermore, regard should be had to the fact that the applicant has worked with the Council to try to overcome the harm to these trees. The proposal is therefore considered to comply with Arun Local Plan policy ENV DM4 in respect of the exception (c).

ECOLOGY:

There are local resident/Town Council objections to the proposal on the grounds of impact on wildlife species and loss of a hidden pond.

Arun Local Plan policy ENV DM5 states that:

"Development schemes shall, in the first instance, seek to achieve a net gain in biodiversity and protect existing habitats on site. They shall also however 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). Development schemes shall also be appropriately designed to facilitate the emergence of new habitats through the creation of links between habitat areas and open spaces. Together, these provide a network of green spaces which serve to reconnect isolated sites and facilitate species movement.

Where there is evidence of a protected species on a proposed development site, planning applications shall include a detailed survey of the subject species, with details of measures to be incorporated into the development scheme to avoid loss of the species. This involves consideration of any impacts that will affect the species directly or indirectly, whether within the application site or in an area outside of the site, which may be indirectly affected by the proposals. All surveys shall be carried out at an appropriate time of year and shall be undertaken by a qualified and, where appropriate, suitably licensed person. All developments shall have regard to Natural England's standing advice for protected species."

The applicant has provided an ecology statement which demonstrates that there are no signs of protected species using the site. The Council's ecologist has accepted these results and agrees with the mitigation proposed by the applicants' ecology consultants, whilst also recommending additional mitigation to be enforced by condition. It is accepted that there was previously a pond on the site but at some point prior to the first application, this was filled in and covered such that there is currently no aquatic environment on the site. However, it is noted that as part of the flood mitigation measures put forward, it is proposed to reinstate this pond and this would therefore achieve a net gain in biodiversity.

Given the advice of the Council's ecologist, it is not considered that an objection can be raised on these grounds and that therefore, the proposal is in accordance with Arun Local Plan policy ENV DM5.

RESIDENTIAL AMENITY:

There are local resident/Town Council objections to the proposal on the grounds of:

- Loss of daylight to surrounding properties;
- Loss of privacy to surrounding properties;
- Overbearing impact due to higher floor levels; and
- Not possible to add screening to boundary with Arun Road due to potential for damage to the land drain.

Arun Local Plan policy D DM1 requires that the Council have regard to certain aspects when considering new development including: (3) Impact - "Have minimal impact to users and occupiers of nearby property and land. For example, by avoiding significant loss of sunlight, privacy and outlook and unacceptable noise and disturbance." Regard should also be had to paragraph 127 of the NPPF which states that

"Planning policies and decisions should ensure that developments: (f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience."

It is not considered that the proposal will result in harm to surrounding properties in respect of privacy, loss of light or general amenity. The proposed dwellings are at least 38m from the houses to the rear on Arun Road, at least 25m from 41-47 Pevensey Road and at least 17m from the rear of 53/55 Pevensey Road to the north west. The Council would look for a minimum back to back (or front to back) to distance of 20m in order to mitigate the impacts of overlooking between upper floor windows. The distance to 53/55 Pevensey Road is slightly less than this but this is acceptable given that it is a rear to side relationship and that the only upper floor window to face these existing dwellings is a toilet window which can be made to be obscure glazed and top vent opening.

It is accepted that the proposed houses will have finished floor levels set up to 0.8m higher than ground levels. However, given the interface distances, this is not considered to result in an adverse relationship with the houses to the front or rear. Furthermore, both Arun Road to the rear and Pevensey Road to the north west are on higher ground and the submitted site sections demonstrate that the eaves level of the proposed houses will still be lower than the eaves of the existing houses. Therefore, it is not considered that the new houses would have any overbearing impact on neighbouring properties. Furthermore, ground floor windows will still be screened out by the boundary treatments.

Additional landscaping could be added to provide further mitigation but despite this not being possible on the rear boundary due to the drain, it is not considered that screening is necessary to make the development acceptable.

Arun Local Plan policy QE SP1 states that: "The Council requires that all development contributes positively to the quality of the environment and will ensure that development does not have a significantly negative impact upon residential amenity". Policies QE DM1 (noise pollution), QE DM2 (light pollution) and QE DM3 (air pollution) are all also relevant and seek to protect the living conditions of residential occupiers.

The proposal will slightly intensify an existing access between two dwellings and also create new car parking on land that is currently garden and which adjoins other gardens. However, it is considered that cars travelling within the site will be doing so at low speeds due to the width of the access road and the need for care in respect of other parked cars. This will therefore reduce vehicle noise to the adjoining properties (some of whom may be the applicants now but could in future be occupied by people unrelated to the application).

It is acknowledged that some cars are noisier and more polluting than others (diesels for example) but with Government policy now to phase out such vehicles, it is likely that such instances will be the exception not the rule. Furthermore, if a bonded material is used for the driveways then this will also minimise noise disturbance. It is also noted that the visitor parking spaces are shown to be set in from the side boundaries thus allowing for landscaping to be included which along with boundary treatments, will provide acoustic mitigation of noise and also absorb any vehicle fumes.

It is accepted that there would be an intensification of noise from the new residents within the site over and above what might be expected from the existing two dwellings. However, residential noise would not be unexpected in a residential environment particularly given the size of the existing gardens to the houses on this side of Pevensey Road which provide lots of space for physical activity/play.

It should be noted that no communal bin or cycle stores are shown and as such there will be no intensification of noise from bins/storing cycles in a particular part of the site. Instead, such noise will be spread out and will not occur at the same times. In any case, such noise is not unexpected in a residential area.

A planning condition could be imposed to seek to control any external lighting so as to ensure that it does not cause harm to any local bat populations and also minimises light pollution to surrounding residents.

The proposal is therefore considered to comply with Arun Local Plan policies D DM1, QE SP1, QE DM1, QE DM2 and QE DM3

SPACE STANDARDS:

Arun Local Plan policy D DM2 states that: "The planning authority will require internal spaces to be of an appropriate size to meet the requirements of all occupants and their changing needs. Nationally Described Space Standards will provide guidance".

It is therefore necessary to assess the proposal against the internal space standards set out in the Governments Technical Housing Standards (Nationally Described Space Standard) in order to determine whether the proposed replacement dwelling is suitable for residential use.

The following is a breakdown of the proposals versus the space standards:

Plot no. - Storeys/Beds/Persons - Requirement - Proposed - Compliance (Y/N)

1 -	2S/4B/6P* -	102m2 -	122m2 -	Y;
2 -	2S/4B/6P* -	102m2 -	122m2 -	Y;and
3 -	2S/3B/5P -	93m2 -	111m2 -	Y.

* Plots 1 & 2 have a study room over the garage which has been assessed as a further single bedroom.

Policy D DM1 refers to the need for compliance with the Arun Design Guide. This is to replace policy D DM3 "External Space Standards" which was deleted at the request of the Local Plan Inspector. Until such time as this Design Guide is published, there is no policy within the Arun Local Plan regarding private gardens sizes. However, paragraph 127 of the NPPF states that: "Planning policies and decisions should ensure that developments: (f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience."

The proposed houses will all have private rear gardens of at least 20m in depth and therefore are considered to have sufficient amenity space. The existing dwellings (43 & 45) will see their rear garden reduced but still retain gardens of sufficient depth (at least 13m) and area (at least 84m²) such that they would have complied with D DM3 had it still been in use. It is therefore considered that the scheme provides a good standard of amenity for future occupiers.

It is therefore considered that the proposal complies with Arun Local Plan policies D DM1 & D DM2 and the guidance on amenity within the NPPF.

PAGHAM HARBOUR:

Arun Local Plan policy ENV DM2 requires that all new residential developments within a 400m to 5km distance ('Zone B') of Pagham Harbour make a financial contribution towards the provision of accessible natural open green spaces to serve the area. A contribution of £1,275 per new residential unit was agreed by the Councils Cabinet on 20 July 2015. The report to Cabinet stated that:

"The access management measures identified are referred to as Strategic Access Management and Monitoring (SAMMs). As these do not include the allocation of specific land, they are not classified as physical infrastructure, and are not included under the definition of infrastructure within Section 216 of the Planning Act 2008, meaning the pooling restrictions as set out under Regulation 123 of the CIL Regulations (2010) as amended, do not apply. It is common practice by many other authorities (for example Elmbridge) that contributions towards SAMMs are gathered through S106 planning obligations. This approach has also been confirmed within Counsel advice sought by the Council. As a contribution is required to make the development acceptable in planning terms, it is therefore in compliance with the tests under Regulation 122 of the CIL Regulations (2010) as amended"

The Councils Cabinet subsequently approved a reduction in the tariff from £1,275 to £871 as of the 10th April 2017.

Paragraph 014 (Reference ID 23b-014-20160519) of the Planning Practice Guidance describes tariff style contributions. It clearly states that these consist of contributions to pooled funding 'pots' intended to fund the provision of general infrastructure in the wider area. The Council accepts that the Pagham Harbour contribution is based on a tariff. However, the contribution is required to fund strategic access management and monitoring measures (SAMMs) which are necessary to meet the requirements of European law (transposed into English law through the Conservation of Habitats and Species Regulations 2010). Essentially this requires the Council to maintain, if not improve, the existing condition of the site.

As these SAMMs do not include the allocation of specific land, they are not classified as physical infrastructure, and are not included under the definition of infrastructure within Section 216 of the Planning Act 2008, meaning that the pooling restrictions as set out under Regulation 123 of the CIL Regulations (2010) as amended, do not apply.

Therefore, it is considered that the Council is able to seek these contributions despite the guidance in PPG Paragraph 031 (Reference ID: 23b-031-20160519009) that tariff style planning obligations should not be sought from small scale developments. This has also been tested at appeal on several occasions. For example, APP/C3810/W/16/3146804 which concerned a single dwelling in nearby Aldwick.

This contribution is now required for all new residential developments within Zone B. The applicant had originally provided a draft legal agreement to cover the required contribution of £3,484. However, a new

agreement was required to reference the change in the number of houses from 4 to 3 and also to ensure that the applicant is included as a party to the agreement.

The applicant has submitted a revised agreement which secures the contribution of £2613 and this agreement has been declared valid. There is therefore no conflict with Arun Local Plan policy ENV DM2.

SUMMARY:

There is no in principle objection to the residential development of this back land site which is located in an urban location. The proposal is also considered to represent sustainable development and thus benefits from a presumption in favour of sustainable development. Furthermore, the proposal is not considered to result in any material harm to local character, highway safety/convenience, high amenity trees, local ecology or the amenity of existing & future residents. However, it has not been possible to overcome the concerns over the impact of the development on local surface water flooding and the risk of flooding to neighbouring land. As such it is considered that the proposal will increase flood risk to future residents and existing neighbouring properties. As such the application must 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 site of the proposed three dwellings is considered to be at high risk of surface water flooding and the application has not demonstrated that there will be no loss of flood storage, no increase in flood risk to neighbouring properties and that the proposed houses themselves will be resilient to flooding. As such, the proposal is considered to be contrary to policy W DM2 of the Arun Local Plan and the National Planning Policy Framework, paragraphs 155 and

163.

- 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 the refusal, approval has not been possible.