

Recommendation Report for Planning Permission

REF NO: BR/247/21/PL

LOCATION: Ancient Mariner Hotel
59 West Street
Bognor Regis
PO21 1XB

PROPOSAL: Change of use from single dwelling (C3) to 6 No self-contained flats (C3), a 10-bedroom co-living housing unit (Sui Generis) & insertion of 3 No new front windows. This application affects the character & appearance of The Steyne, Bognor Conservation Area.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Planning permission is sought for the change of use from single dwelling (C3) to 6 No self-contained flats (C3), a 10-bedroom co-living housing unit (Sui Generis) & insertion of 3 No new front windows.
SITE AREA	295 square metres
RESIDENTIAL DEVELOPMENT DENSITY (NET)	370 dwellings per hectare.
BOUNDARY TREATMENT	A low, rendered boundary wall to the front and on the western boundary facing to West Street.
SITE CHARACTERISTICS	The site consists of a four storey (the main front part) rendered corner property with a rear wing three storeys in height (one level is spilt), Locally Listed Building, previously used as a bed and breakfast. Seafront location facing West Street and the Esplanade. There is a small area of amenity space to the front/side of the building, which is enclosed with a low, rendered boundary wall and a small yard enclosed by buildings.
CHARACTER OF LOCALITY	Prominent seafront locality in the Bognor Regis (Steyne and Waterloo Square) Conservation Area on the junction of West Street and The Esplanade with the open space of the Grade II listed Royal Norfolk to the west and Bognor Pier Grade II listed building to the west. The area also contains several small/narrow service streets or roads, with smaller cottage style buildings, where the scale contrasts with the large, formal space of the main squares. Chimneys are important features on the skyline. The site lies outside the Economic Growth Area for Bognor Regis Town Centre

RELEVANT SITE HISTORY

REPRESENTATIONS

Bognor Regis Town Council: Objection.

- Whilst acknowledging that the current use of this building is residential, the Town Council would welcome an application to turn this back into tourist accommodation, given its history as a hotel and the prime position it enjoys in our seaside resort.
- There is disappointment at the lack of affordable housing in the proposal.
- Were each bedroom accommodated to their full capacity then this would result in 32 persons residing at the property, with no parking provision included in the proposals.
- Due to a proliferation of smaller household typologies (and commensurate increase in population density) demand for parking has increased considerably which has led to amenity issues deriving from parking demands and involvement of anti-social behaviour.
- No evidence has been provided to demonstrate whether or not there is existing spare parking capacity in the surrounding area.
- Inadequate areas of open space, suitable for up to 32 persons, can be provided in this application, particularly in making provision for the drying of clothes outdoors and the storage of refuse.

6 letters of objection:

- An ample bin storage, drying area and cycle storage for the proposed development involving approximately 32 people needs to be carefully allowed. It appears insufficient.
- No more than three flats should be allowed.
- Please do allow this planning to be passed and respect the electorate trust to preserve the importance of these buildings.
- This once beautiful building deserves to be respected and cannot be turned into a house of multiple occupation.
- There is no need for further HMO's in Bognor Regis. This should be returned to a Hotel, which the town desperately needs.
- Another HMO by different name.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted.

- WSCC does not anticipate the nil parking provision would result in a highway safety concern or give rise to a parking capacity issue.
- Other planning issues are addressed below.

CONSULTATIONS**CONSULTATION RESPONSES RECEIVED:**

Engineers Comments Regarding Surface Water Drainage: Due to the scale (no increase in impermeable area), location and type of application we have no conditions to request. Any alterations to surface water drainage must be designed and constructed in accordance with Building Regulations.

It is noted that the FRA wrongly states that the site is in Flood Zone 3a, rather than Flood Zone 3b. Please ensure that the Environment Agency are aware of this error.

WSCC, the Highways: The local Highway Authority does not consider that to proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network.

Principal Conservation Officer: The approach of the LPA will be to decide whether additional residential units, as opposed to a tourism related use is acceptable. In view of the location of the building on the corner of the esplanade, its previous use as a hotel, or one related to the tourist industry would have been preferred, however, the proposed use will also reflect the mixed-use character of the area. The additional windows could not cause harm to the elevation, if they are carried out to a high quality. Any new windows should be recessed within the openings to the same depth as the existing ones so as to ensure that they do not detract from the attractive elevation. details of any replacement windows could be provided for by way of condition. It is not clear from submitted drawings if the exterior of the building is to change colour and what would be proposed. It is concluded that the proposal will not cause harm to either the building, or the conservation area.

Arun District Conservation Area Advisory Panel: No objection subject to suggested condition which requires the submission of precise details of the new windows including their materials, finishes, frame and glazing bar sizes, operating mechanisms and depths of reveals.

Natural England: Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance. Subject to the appropriate financial contribution being secured.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted. The S106 has not been signed so this will form a reason for refusal.
Environmental Agency has been consulted, however, no response received.

POLICY CONTEXT

Designation applicable to site:

Within Built Up Area Boundary;
The Bognor Regis (Steyne and Waterloo Square) Conservation Area;
Pagham Harbour Zone B;
Flood Zone 3a and 3b.

DEVELOPMENT PLAN POLICIES

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

DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
DDM4	D DM4 Extensions&alter to exist builds(res and non-res)
DSP1	D SP1 Design
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVDM2	ENV DM2 Pagham Harbour
ENVDM5	ENV DM5 Development and biodiversity
HDM1	H DM1 Housing mix
HERDM2	HER DM2 Locally Listed Buildings or Structures of Character

HERDM3	HER DM3 Conservation Areas
HERSP1	HER SP1 The Historic Environment
HSP4	H SP4 Houses in multiple occupation
QEDM1	QE DM1 Noise Pollution
QESP1	QE SP1 Quality of the Environment
SDSP1	SD SP1 Sustainable Development
SDSP2	SD SP2 Built-up Area Boundary
TSP1	T SP1 Transport and Development
WDM1	W DM1 Water supply and quality
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems
WMDM1	WM DM1 Waste Management

Bognor Regis Neighbourhood Plan 2015 Policy 1	Delivery of the Vision
Bognor Regis Neighbourhood Plan 2015 Policy 2	Promoting the Seaside Identity

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD11	Arun Parking Standards 2020
SPD13	Arun District Design Guide (SPD) January 2021

POLICY COMMENTARY

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

Policies 1 and 2 within the Bognor Regis Neighbourhood Plan is relevant to the determination of this application.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to conflict with relevant Development Plan policies in that it would not provide areas for wasted storage and an adequate area of open space to serve the future occupants and the proposed development would result in an intensification of use the site in a location with a high risk of flooding and fails to ensure adequate flood risk would not increase elsewhere.

OTHER MATERIAL CONSIDERATIONS

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

This is in the form of the Council's current lack of a 5 year housing land supply which means the NPPF's presumption in favour of sustainable development applies to applications for the provision of housing.

CONCLUSIONS

KEY ISSUES

The key issues are principle, design and visual/residential amenity, space standards, highways/traffic, heritage, flooding and natural environment.

PRINCIPLE

The site is in the Bognor Regis Built-up Area Boundary in the Local Plan where development is acceptable in principle in accordance with policy SD SP2 of the Arun Local Plan and provided it accords with other policies of the Local Plan covering such issues as visual amenity/character, residential amenity and parking. The key policies of the Arun Local Plan are D SP1, D DM1, D DM2, ECC SP2, ENV SP1, ENV DM1, ENV DM2, ENV DM5, H SP4, HER DM2, HER DM3, W DM1, W DM2 and T SP1 of the Arun Local Plan and relevant paragraphs of the NPPF.

Policy D SP1 of the Arun Local Plan requires development to make efficient use of land reflecting the characteristics of the site and local area and policy D DM1 states that a high standard of architectural principles should be demonstrate and new development should have a minimal impact to users and occupiers of nearby properties and land. Policy D DM2 expects internal spaces to meet the requirements of Nationally Described Space Standard. Policies HER DM2 and HER DM3 stresses the importance of the historic environment and its preservation and policy ECC SP2 expects all new development to be energy efficient. Policy W DM2 sets the criteria for development in areas at risk from flooding.

Regard should be had to policy SD SP1 of the Arun Local Plan which states "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 (NPPF)." Para 120 (d) of the NPPF 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 where land supply is constrained and available sites could be used more effectively". Paragraph 124(d) NPPF requires planning policies and decisions to support development that makes efficient use of land, taking into account the desirability of maintaining an area's prevailing character and setting.

The NPPF supports the effective and efficient use of land for sites in the built up area but advises new development should be well integrated with and should complement neighbouring buildings and the local area in terms of scale, density, layout and access.

The Council is unable to identify a 5-year supply of housing land and the relevant housing policies of the development plan are out of date. In these circumstances, paragraph 11 d) ii of the Framework requires planning permission to be granted unless "any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."

The proposal is acceptable in principle given its position in a sustainable location in the Built-Up Area

Boundary, in walking distance of a range of shops, facilities and services. There are frequent bus services on The Esplanade Road and the proposal site is within a walking distance from Bognor Regis Railway Station. It would provide six self contained flats and small scale accommodation i.e. HMO rooms of accommodation for single people, elderly and young people within the town centre who may not have access to private transport.

The development utilises a site which was historically used as class A1 and currently as a single dwelling. The proposal is for the conversion of dwelling into 6 self contained flats and 10 bed HMO above 3 floors. A proposal for a HMO in a sui generis use class contributes a single additional dwelling towards the Council's annualised housing targets in a period where a shortage of housing land has been identified. The development would deliver these additional bedrooms and 6 flats on a previously developed site which is sustainably located. Such an approach is supported by policies SD SP1 and SD SP2 of the Arun Local Plan and NPPF.

Policy H SP4 (ALP) states where applications for houses in multiple occupation are not covered by permitted development rights, they will be favourably considered where proposals contribute to the creation of sustainable, inclusive and mixed communities and meeting the detailed criteria:

- a. Do not adversely affect the character of the area including eroding the balance between different types of housing, including family housing;
- b. Do not contribute to the generation of excessive parking demands or traffic in an area;
- c. Provide adequate areas of open space.

The NPPF's para. 12 requires that up-to-date Development Plan policies are the starting point for decision-making. In this case the relevant policy is Local Plan policy H SP4 which is considered to be up to date.

IMPACT ON CHARACTER OF AREA:

HMO policy H SP4 requires that HMOs (a) Do not adversely affect the character of the area including eroding the balance between different types of housing, including family housing. The supporting text (para 12.5.1) states "In providing for the housing needs for Arun, it is important to ensure that mixed and balanced communities are developed so that situations where existing communities become unbalanced by the narrowing of household types towards domination by a particular type, such as shared housing, are avoided."

The site is located within the Bognor Regis (Steyne and Waterloo Square) Conservation Area and the building is identified as a Locally Listed Building by the LPA. As such it is a non-designated heritage asset. The conservation area is situated on the seafront just west of the town centre and contains a mixture of uses including, residential, tourism related, cafes etc and restaurants. The approach of the LPA will be to decide whether additional residential units, as opposed to a tourism related use is acceptable. In view of the location of the building on the corner of the esplanade, its previous use as a hotel, or one related to the tourist industry would have been preferred. However, the use of proposal property has been via CLE application changed from previously used as a bed and breakfast to one dwelling and the proposed development would generally reflect the mixed-use character of the area. The proposals would therefore accord with criteria (a) of HMO policy H SP4.

PARKING, TRAFFIC AND HIGHWAYS IMPACTS:

Para.110 of the NPPF states in assessing specific applications for development it should be ensured that (b) safe and suitable access to the site can be achieved for all users. Para. 111 of the NPPF states 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.

Policy T SP1 of the Arun Local Plan requires development proposals to provide safe access onto the highway network and to incorporate appropriate levels of parking in line with adopted planning policies. ALP policy T DM1 requires development to make provision for facilities for sustainable modes of transport such as cycling, to meet the parking standards, including cycle storage.

HMO policy H SP4 requires that HMOs (b) Do not contribute to the generation of excessive parking demands or traffic in an area.

WSCC Parking Standards Guidance (September 2020) expects the provision of 0.5 car parking spaces per bedroom and 1 cycle parking space per unit for HMO developments. The ADC Parking SPD (2020) does not specify car or cycle parking standards for HMO developments, but for new residential development expects 2 car parking spaces for 4 bedroom + houses (in Parking Behaviour Zone 4) and 1 cycle parking space per unit for 1 bed flats/houses. The ADC Parking SPD also requires all houses with a garage or driveway to include 100% of parking spaces with electric vehicle charging point (EVCP) provision and for other development to include 20% of parking spaces with this EVCP provision.

The site is proposed to be a car-free development with no on-site vehicle parking facilities the site is within a controlled parking zone as such future occupants owning private vehicles could benefit from resident permits or vehicle parking provision within nearby car parks. Whilst according to requirements of ADC Parking Standards, Principle 2.13 it will be necessary to demonstrate through a parking capacity survey that there is sufficient capacity to accommodate the expected parking demand, no parking capacity survey has been provided by the applicant to demonstrate a sufficient capacity of on street parking within the area.

The applicant proposes in their submitted DAS to provide cycle storage along the front curtilage. According to the requirement of WSCC and ADC Parking Standard Guidance it is expected to provide secure and covered cycle storage facilities for the prospective occupiers of property. This is, however, unrealistic in this particular case since the proposal property is a Locally Listed Building occupying a dominant corner position within the Conservation Area as such structures are not appropriate in suggested position and no other alternatives are proposed or no appropriate space within submitted floor plans is indicated. Therefore within submitted site and floor plans the applicant failed to provide secure and covered cycle storage facilities.

WSCC does not consider that this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 111), and that there are no transport grounds to resist the proposal subject to suggested conditions.

The parking and secure and covered cycle storage facilities allocation would fails to comply with policies T SP1, T DM1 and H SP4(b) of the Arun Local Plan and ADC Parking Standards.

PROVISION OF OPEN SPACE:

HMO policy H SP4 requires that HMOs (c) provide adequate areas of open space and policy D DM1 refers to the need for compliance with the Arun Design Guide. This replaces policy D DM3 "External Space Standards" which was deleted at the request of the Local Plan Inspector. Arun Design Guide part H.04 advises on Residential Outdoor Amenity & External Space Standard:

- All development should provide residents with access to outdoor amenity space, whether private or communal. It advises that Residential Communal Shared Spaces should be minimum 40sqm plus 10sqm

for each unit. These standards are applicable in the majority of cases, but innovative approaches to more compact building layout may be supported by ADC, where appropriate.

The size of the existing yard would not allow for required Residential Shared Communal Spaces. This is considered unacceptable especially considering the proposed a 10 bed HMO. There is an abundance of public open space in close proximity to the property, along Bognor Regis seafront and at local parks, providing outdoor amenity for future occupants of the HMO, but some provision should be incorporated into the scheme to allow for outside seating/outside drying areas as a minimum.

PROVISION OF INTERNAL SPACE FOR PROPOSED FLATS AND HMO OCCUPANTS:

Policy D DM2 of the Arun Local Plan states that the planning authority will require internal spaces to be of an appropriate size and that the Nationally Described Space Standards apply.

National guidance advises for a 1 storey 1 bed 2 people home as proposed, the minimum Gross Internal Area is 50sqm. Submitted plans show Unit 1 would have a GIA of approximately 46sqm, Unit 2 approximately 39sqm which would not satisfy the requirement of National Guidance. For 2 bed 3 people home 61 sqm is required whilst 57sqm is proposed (Unit3). For 3 bed 5 people 2 storey the minimum Gross Internal Area required is 93sqm whilst 85sqm is proposed. Only Unit 5 and 6 would satisfy the requirement of the Nationally Described Space Standards providing 42sqm 1bed 1 person and 52sqm 1 bed 2 person.

The bedroom window of Unit 2 would be within a distance of 0.6m from the wall of neighbouring building and all bedrooms facing the courtyard would have a poor outlook being within a distance of approximately 2m from the wall.

The Technical Housing Standards (Nationally Described Space Standard) does not provide relevant standards for Houses in Multiple Occupation. Regard should be had to Arun's Environmental Health Private Housing Standards.

The standards reference the following documents: "LACORS Promoting Quality Regulation" (LGA) 2009 and "Chichester and Arun Landlord Accreditation Scheme Standards" 2013. The Chichester and Arun Landlord Accreditation Scheme Standards 2013 include requirements such as number of bathrooms/toilets, number of electric sockets per room, kitchen facilities, heating, waste disposal, energy efficiency and windows. These would all need to be adhered to in order to receive an HMO licence from the Council.

The Council's Private Sector Housing Officer has not commented but if the use does not meet the HMO Standards, this is likely to be identified as a hazard under the Housing Health and Safety Rating System (HHSRS). The HMO Officer can provide general advice in respect of fire safety, ventilation and legislation requirements.

It is considered the proposal is acceptable in terms of internal space standards and minimum room sizes for this type of use.

WASTE STORAGE PROVISION:

Policy WM DM1 of the Arun Local Plan affirms "New residential development, including conversion of one dwelling into multiple units, will be permitted provided that:

- a. It is designed to ensure that kerbside collection is possible for municipal waste vehicles
- b. Where appropriate, communal recycling bins and safe bin storage areas are available to residents of flats.

The supporting text (para. 12.5.5) to HMO policy H SP4 states that "Larger households tend to generate more refuse, regardless of whether the property is occupied by a single family or in multiple occupation. Where large amounts of refuse are not adequately stored prior to collection, it can become both unsightly and a health hazard, particularly during summer months."

The submitted Block Plan does not indicate the provision of communal recycling bins and safe bin storage areas whilst for a 10 bedroom HMO, it is expected that 1 x 240L capacity for recycling and 1 x 240L capacity for rubbish is provided per bedroom.

For flats, the communal/bulk bins can be used on the basis of 240 litres of residual waste storage/bin per flat. Alternatively one 240 litre wheelie bin for each property can be provided. The same amount of storage space/bins for recyclable materials is required to be provided.

As mentioned above, submitted plans do not indicate any provision of wasted storage areas which are rather of considerable amount given the proposed intensification. The proposed development would result in a density of 370 dwellings per hectare without proper consideration of the waste management for 6 flats and 10-bed/which could support 18 persons in HMO (all together 32 persons). Whilst situated within the Conservation Area and occupying the prominent position with no direct access to the courtyard. Each HMO room functionally operates as its own self-contained residential unit of accommodation. It would generate its own waste requirements.

For the above reason, the proposed development would fail to comply with policies WM DM1 and H SP4 (para. 12.5.5).

RESIDENTIAL AMENITY IMPACT:

Policy D DM1 of the ALP states new development will have minimal impact to users and occupiers of nearby property and land, by avoiding significant loss of sunlight, privacy and outlook and unacceptable noise and disturbance. QE SP1 states the Council requires development contributes positively to the quality of the environment and will ensure that development does not have a significantly negative impact upon residential amenity. Policy QE DM1 seeks to protect against the impacts of new noise generating development. It states that: "Developers proposing new noise generating development must seek advice from an early stage to determine the level of noise assessment required."

Supporting text (para. 12.5.2) to HMO policy H SP4 states that "A large concentration of housing in multiple occupation (HMOs) can have a significant and potentially damaging impact on the amenity of a local area" and that (para. 12.5.4) "Many properties are capable of accommodating a modest increase in occupancy." It goes on to say however "increased occupancy may well give rise to noise and disturbance".

The proposed change of use from a single dwelling to 6 self-contained flats and a 10 bedroom HMO give rise to considerable increased occupancy and significant intensification of the use of the property. Whilst the proposed HMO use would result in an increase in external activity and thus, increase in noise levels, the use would be residential in character and have similar characteristics to residential properties in the locality.

It is also worth noting that the proposal property due its orientation with the majority of habitable windows facing the streets and open space behind would have a minimal impact to users and occupiers of nearby properties considered to result in adverse harm upon the neighbouring amenity by way of overshadowing, overbearing or overlooking and as such accords with D DM1, QE SP1, QE DM1 of the Arun Local Plan.

HERITAGE CONSIDERATIONS:

Policy HER DM2 of the Arun Local plan requires that all Locally Listed Buildings or Structure of Character must be largely intact and not adversely affected by later extensions or alternations and preferably, although not exclusively, they should make a positive contribution to their surroundings or the street scene. Policy HER DM3 states planning permission will be granted for development which preserves or enhances the character and appearance of a Conservation Area or its setting. Policy HER DM2 assert.

Policy 1 of the Bognor Regis Neighbourhood Development Plan stresses that proposals must identify the significance of any affected heritage asset and assess any harm and benefit. Policy 2 requires development proposals within the 'Wider Town Centre Area' and concerned with extensions and alterations to the exterior of Designated and Non-designated Heritage Assets and their settings must adhere to a 'Secure, restore and boost our seaside identity first' principle by echoing and responding eloquently and innovatively to the local built environment character and setting.

Paragraph 199 (NPPF 2021) states when considering the impact of a development on Conservation Areas, great weight should be given to conserving the heritage asset. Significant features can be harmed or lost through alterations. Paragraph 201 states where a development will lead to substantial harm to the heritage asset, it should be refused.

Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) affirms that in the exercise, with respect to any buildings or other land in a conservation area, of any functions under, or by virtue of any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

The building is Locally Listed Building and the site falls within the Bognor Regis (Steyne and Waterloo Square) Conservation Area. The proposal is for a change of use from a single dwelling to six self-contained flats, and a 10-bedroom HMO. Works will also include the insertion of three additional windows on the southern elevation of the building. The Principal Conservation Officer was consulted on this proposal and he is of the opinion that the additional windows could not cause harm to the elevation, if they are carried out to a high quality and the proposal will not cause harm to either the building, or the conservation area, when considered on the basis of the entire area subject to suggested condition.

The proposed development therefore would not impact upon the character of the Conservation Area or the character and appearance of Locally Listed Building in accordance with Policy HER DM2 and HER DM3 of the Arun Local Plan and paragraph 199 of the National Planning Policy Framework and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) and Policy 1 and 2 of the BRNDP.

ECOLOGY:

In terms of legislation, development will need to avoid impacts on legally protected species, and where this is not possible, mitigation or compensation will be necessary and a Licence from Natural England may be required. Paragraphs 174 and 180 of the NPPF indicate that developments should aim to protect or enhance, minimise impacts, and provide net gains to biodiversity. Net Biodiversity Gain is an important aspect of the Environment Act and the NPPF. ALP policy ENV DM5 states development shall seek to achieve a net gain in biodiversity and protect existing habitats on site.

No biodiversity enhancement measures have been proposed in order to accord with the Environment Act, NPPF and ALP policy ENV DM5. However this does not result in a reason for refusal as biodiversity net gain can be conditioned.

FLOODING/DRAINAGE:

ALP policy W DM2 sets out the requirements for development in areas at risk of flooding, including; the need for the sequential test, an FRA, adaptation and mitigation measures, flood warning and evacuation plans and site drainage plans. ALP policy W DM3 states that all development must identify opportunities to incorporate a range of Sustainable Urban Drainage (SUDs) systems. The ADC Design Guide SPD (Section K.04) requires that development incorporate Sustainable Drainage Systems (SUDs) and flood risk mitigation.

The rise in sea level will change the frequency of occurrence of high water levels relative to today's sea levels, assuming no change in storminess. There may also be secondary impacts such as changes in wave heights due to increased water depths, as well as possible changes in the frequency, duration and severity of storm events. A 10 per cent sensitivity allowance should be added to offshore wind speeds and wave heights by the 2080s. It will therefore be important that developers, their advisors and local authorities refer to the current flood map and the Strategic Flood Risk Assessment when preparing and considering proposals. The above approach is consistent with the approach required and detailed in Policy W DM2 of the Arun Local Plan.

The application site is located within Flood Zones 3 as identified by Environment Agency Mapping. The application site comprises a non-allocated site that falls within the scope of minor development (as defined by paragraph 168 of the NPPF) and would not therefore be subject to the Sequential or Exceptions Test.

The applicant submitted a Level 2 Flood Risk Assessment describing the proposed development to be located at the edge of a Flood Zone 3a area as per the Environmental Agency's Flood Zone Map whilst Drainage Engineers in their consultation pointed out at the submitted FRA which wrongly states that the site is in Flood Zone 3a, rather than Flood Zone 3b and the consultation of the Environment Agency was requested and be aware of this error.

The Environmental Agency has been consulted, however no response received. According to the Council mapping, the proposed development is in fact located entirely within Flood Zone 3. No exception test have been submitted as part of the FRA which the Council would have expected for 'more vulnerable development' within a Flood Zone. The applicant in their FRA ensures that both the Sequential and Exception Tests are not required as the change of use is within the same vulnerability class. On one hand the proposal property is in use as a private dwelling and the proposed change is for the residential use, however considerable intensification of use is proposed via change of this private dwelling for 6 self-contained flats and 10 bed HMO involving approximately 32 people.

On the basis it is considered that an insufficient and inaccurate information has been provided to adequately demonstrate that the proposed development is at high risk of flooding will not be at risk from future flooding. The proposal is in conflict with Arun Local Plan policy W DM2 and with the guidance in the National Planning Policy Framework.

IMPACT ON THE PAGHAM HARBOUR SPECIAL PROTECTION AREA:

ALP Policy ENV DM2 requires 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 Councils Cabinet subsequently approved a reduction in the tariff from £1,275 to £871 as of the 10th April 2017.

NPPF, paragraph 174 a) stresses that planning policies and decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status).

The site lies in designated Zone B and this application results in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance.

According to Natural England's advice, an appropriate assessment in view of the European Site's conservation objectives and in accordance with the Conservation of Habitats & Species Regulations 2017 (as amended), PART 6, Chapter 2 should be carried out. It should be considered whether the development, notwithstanding financial measures, is likely to have a significant effect on the Pagham Harbour Special Protection Area.

The application for the change of use from single dwelling to six self-contained flats and a 10-bedroom HMO results in recreational disturbance only to Pagham Harbour. Having considered mitigation and avoidance measures to be provided in-perpetuity through the contribution to the Joint Pagham mitigation scheme, Arun District Council conclude that with mitigation the plan or project will not have an adverse effect on the Integrity of the European protected site(s).

On the basis of a net gain of 7 units, the applicant has agreed to the £6,0907 contribution but this has not been secured by the agreed Section 106 agreement therefore there is conflict with policy ENV DM2 of the Arun Local Plan.

TILTED BALANCE & OTHER MATERIAL CONSIDERATIONS

Paragraph 14 of the NPPF makes clear that "in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbouring plan is likely to significantly and demonstrably outweigh the benefits, provided all of the criteria applies. This criteria includes:

- a) The neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;
- b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement;
- c) the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 74); and
- d) the local planning authority's housing delivery was at least 45% of that required over the previous three years"

The Council has published its Authority Monitoring Report (AMR) for 2020/21 and this shows that the Housing Land Supply (HLS) has decreased from the previous 3.3 year figure to 2.4 years. The presumption under paragraph 11(d) is unaffected by the Neighbourhood Plan.

Notwithstanding this position, the NPPF contains a number of material considerations. In its latest revision on 20 July 2021, the Government significantly strengthened its position on the use and application of design guides in the determination of planning applications. Specifically, para 128 now makes clear that "to provide maximum clarity about design expectations at an early stage, all local planning authorities should prepare design guides or codes consistent with the principles set out in the National Design Guide and National Model Design Code, which reflect local character and design preferences." In this instance, the LPA has undertaken this extensive work which aligns with the requirements of the NPPF.

Para 159 of 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).

Para 167 of the NPPF stresses: 'When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.'

Para 129 of the NPPF details how such Design Guides should be applied at decision taking level: "Design guides and codes can be prepared at an area-wide, neighbourhood or site-specific scale, and to carry weight in decision-making should be produced either as part of a plan or as a supplementary planning documents". In this instance, the ADC Design Guide comprises a formally adopted SPD. Following para 129, it therefore carries weight in decision-making. To make this position abundantly clear, para 134 states:

"Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes."

Whilst the LPA acknowledges the applicants intention of using the site effectively, safeguards such as Design Guides are adopted by Local Planning Authorities to specifically ensure that sites are not overdeveloped. The way in which they work is that if too much development is proposed, then it simply cannot accord with the contents of the adopted Design Guides.

CONCLUSION

The proposal is for a significant intensification of use of the site what is favourable on one hand and supported by the above policy and para 120 (d) of the NPPF, however the proposed development would result in a density of 370 dwellings per hectare within the area at high risk from flooding (flood zone 3) without considering the waste management for 6 flats and 10-bed/which could support 32 persons whilst situated within the Conservation Area occupying the prominent position with no direct access to the courtyard and therefore incompetent for a sufficient provision of communal recycling bins and safe bin storage areas and secure and covered cycle storage facilities for the prospective occupiers. Insufficient information has been provided to adequately demonstrate that the proposed development is at high risk of flooding will not be at risk from future flooding.

This report has balanced this harm against other material considerations, including that of the contents of the NPPF. It has found the contents of the NPPF supports the determination in accordance with the Development Plan. Whilst it is acknowledged that the NPPF does give some support to using sites effectively, this material consideration is not of sufficient weight to demonstrably outweigh the areas of harm identified above. On the basis of the above the tilted balance in para 11d ii fails and planning permission is therefore unable to be granted and should be refused for the reasons set out below.

HUMAN RIGHTS ACT

The Council in making a decision, should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (Right to respect private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the

rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

SECTION 106 DETAILS

The decision would be granted with a S106 legal agreement relating to a contribution of £6,097 towards the cost of delivering measures to avoid or mitigate to an acceptable level, the harm caused to Pagham Harbour by the Development. No signed s106 exists.

CIL DETAILS

This application is not CIL liable as it falls within in Zone 4 and the 'Flats' element is Zero rated.

RECOMMENDATION

REFUSE

- 1 The proposal would result in a overdevelopment of the site through the proposed intensification of use which would result in the inability of the site to accommodate a sufficient provision of communal recycling bins and safe bin storage areas and secure and covered cycle storage facilities for the prospective occupiers, contrary to policies H SP4, T SP1 and WM DM1 of the Arun Local Plan, Design Guide and the NPPF.
- 2 Insufficient and inaccurate information has been provided to adequately demonstrate that the proposed development will not be at risk from future flooding. The proposal is in conflict with Arun Local Plan policy W DM2 and with the guidance in the National Planning Policy Framework
- 3 The proposal provides no outside amenity space for occupiers of the proposed development in conflict with policy HSP4 of Arun Local Plan.
- 4 In the absence of a signed s106 agreement relating to the recreational impact of the development on Pagham Harbour the development would fail to appropriately address the impact caused contrary to ENV DM2 of the Arun Local Plan causing harm to the importance and habitat of the area.
- 5 The proposal fails to demonstrate biodiversity net gain with a wholly inadequate amount of replacement tree planting to compensate for that to be lost and therefore is in conflict with Arun Local Plan policy ENV DM5.
- 6 **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 determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the

harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.