

Recommendation Report for Planning Permission

REF NO:	BR/267/21/PL
LOCATION:	Former Westside Supplies Unit West of 17 to18 Durban Road Bognor Regis PO22 9QT
PROPOSAL:	Development of a new build four storey block of flats for 24 units (13 No 1 bed and 11 No 2 bed). This application is in CIL Zone 4 (Zero Rated) as flats.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application proposes a single building of between 3 and 4 storeys (with the third floor set back 4-6m from the building edge). The building will replicate the shape of the site but provide for gardens and parking (6 spaces) on the northern, western, and southern edges. Additional parking is provided on the ground floor (part covered but open air) as accessed from Durban Road (20 spaces) along with refuse and cycle storage. A small basement level provides ancillary facilities. The three ground floor flats have private amenity space fronting Durban Road/Ash Grove whilst the upper floors have balconies on all sides. Additional communal space is shown on the northern side. The building will be 12m at its highest point (top of the 3rd floor) and 10.2m at the top of the second floor. All roofs are flat, but the 3rd floor has a parapet roof edge (hence the only 1.8m difference in roof heights). The building is set in from the eastern boundary by 2m. The materials consist of red multi & grey multi facing brickwork, timber cladding, aluminium cladding, a flat single ply roof and green/blue roofing. It is proposed that the ground on the site is raised by up to 900mm to raise finished floor levels and reduce risk of flooding to the flats.
SITE AREA	0.12 hectares.
RESIDENTIAL DEVELOPMENT DENSITY (NET)	200 dwellings per hectare.
TOPOGRAPHY	Predominantly flat but the site is below highway level by approximately 0.5m and the site then slopes towards the eastern boundary.
TREES	Three mature Willow trees in the north eastern corner of the site. These are around 17-18m high and rated as category B.
BOUNDARY TREATMENT	1.5m high wire mesh site to all boundaries.
SITE CHARACTERISTICS	The site comprises previously developed land and was

occupied by a two-storey industrial building which had blockwork at ground floor level and a slate mansard roof above. The building was last used as a warehouse/office but has been demolished. The site is on a corner plot and is currently vacant and consists of part hardstanding where the previous building stood, and part grassed.

CHARACTER OF LOCALITY

The character is a mix of suburban residential development to the west and industrial uses to the east. The site is on a corner plot located at the western end of Durban Road at its junction with Ash Grove where it is somewhat divorced from the industrial estate; the nearest industrial building is approximately 15m to the east of the site. Further west is Ash Grove where the site is overlooked by a long terrace of two storey residential properties on the other side of the road. To the south and opposite the site in Durban Road is a 65m long three storey flatted building known as 'Ventura'. The 3-storey element of Ventura fronts the adjacent single storey industrial units. Where it bears a relationship with neighbouring 2 storey development the overall height and massing is stepped down to 2 storeys to reflect this relationship. There are rows of three storey terraced housing to the north-west of the site on Tamarisk Close.

RELEVANT SITE HISTORY

BR/90/18/PL	Demolition of two storey building & erection of three storey block of 8 No. one bedroom flats & 6 No. two bedroom flats with access from Durban Road (resubmission following BR/87/16/PL).	App Cond with S106 09-04-19
BR/87/16/PL	Demolition of two storey building & erection of three storey block of 8 No. one bedroom flats & 6 No. two bedroom flats with access from Durban Road.	Refused 30-05-17
BR/198/11/	Outline Application with some matters reserved for demolition of derelict two-storey building and erection of three-storey block of eight one-bedroom flats and six two-bedroom flats with access from Durban Road. Re-Submission following BR/341/10. This application also falls within the parish of Bersted.	App Cond with S106 09-01-12

BR/87/16/PL sought full permission for a three-storey block of flats (8 x 1 bed & 6 x 2 bed) but was refused due to the applicant not being able to agree to the requirements in respect of off-site affordable housing or infrastructure provision. Subsequently, the requirements were agreed to, and planning permission granted in April 2019 under BR/90/18/PL. This expired on the 4th of April 2022.

Pre-application advice was given in April 2021 concerning a revised scheme of 24 flats which concluded that the scheme would be refused and recommended that it be redesigned to greatly reduce the size of the fourth-floor level and ensure it would be well set-back within the roof, so it is not readily visible in short and medium range views from surrounding streets. Also, that the fifth-floor roof level communal garden should be omitted.

REPRESENTATIONS

Bognor Regis Town Council raise no objection.

One letter of objection on grounds of insufficient parking provision coupled with existing demand for on-street spaces.

COMMENTS ON REPRESENTATIONS RECEIVED:

Parking is considered in the conclusions.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

ENVIRONMENT AGENCY - No objection subject to a minimum finished floor levels condition.

NATURAL ENGLAND - No objection.

SOUTHERN WATER - No objection subject to an informative.

SUSSEX POLICE - No objection. Set out a list of required security measures as detailed in their response on the Councils website dated 20/10/20.

WSCC HIGHWAYS - No objection subject to conditions to secure the access, visibility splays, parking/turning, cycle parking, electric vehicle charge points and a Construction Management Plan (CMP). Comments as follows:

- no objections were raised from the highway point of view to the previous applications.
- the current proposal is for a slightly larger building but with similar access and parking arrangements.
- vehicular access into the development is taken from Durban Road in the form of vehicle crossover which is of suitable geometry for the anticipated vehicle movements and is wide enough to allow two cars to pass.
- no concerns with visibility but due to the proposed building position, the existing street name plate would require relocation.
- refuse storage space is provided on ground floor and on the day of refuse collection bins will be carried near to collection point along Ash Grove in line with existing arrangements for the neighbouring properties.
- all 20 undercroft parking spaces will be provided with electric vehicle charging points which are in excess of the required 20% minimum provision of EV charging points.
- it is estimated that the development is likely to generate 5 vehicular trips in the AM peak hour, 6 trips in the PM peak hour and a total of 62 total daily movements; and
- this level of trips will not cause a detrimental impact on the operation of the local highway network.

WSCC LEAD LOCAL FLOOD AUTHORITY - Comment that the site has a low risk for surface water flooding although there are areas of higher risk on the carriageway adjacent to the site. The site has a high risk for ground water flooding. Raise no objections. State that no development should take place within 5m of any ordinary watercourse and that there should be no wholesale site levels rise.

WSCC INFRASTRUCTURE - No objection subject to a legal agreement to secure contributions towards improvements for education/library facilities and fire safety improvements to the following projects:

- additional facilities at South Bersted CofE Primary School.
- additional facilities at Felpham Community College.
- additional facilities at Felpham Community College Sixth Form.
- additional facilities at Bognor Regis Library; and
- towards the supply and installation of additional fire safety equipment/smoke alarms to vulnerable persons homes in West Sussex Fire Rescue Services Southern Area serving Bognor Regis.

WSCC FIRE - No objection subject to an informative regarding use of interior sprinklers.

ADC DRAINAGE ENGINEERS - No objection and request standard conditions. State infiltration must be fully investigated before it can be discounted. Ground level raising is discouraged.

ADC LANDSCAPE OFFICER - No objection subject to a condition and a legal agreement to secure contributions towards improvements to public open space and play at the Berghestede public open space in Bersted. States the proposed development proposals would have a significant impact on the street scene in this location due to the fact that the site is presently an unoccupied vacant plot but there would be a potentially improving effect on the street scene from the design of these proposals and some green infrastructure improvements from the proposed private and communal external dwelling spaces.

ADC ECONOMIC DEVELOPMENT - No objection but request that an Employment and Skills Plan is submitted and that where possible this includes the use of local labour and suppliers.

ADC ENVIRONMENTAL HEALTH - No objection subject to conditions to secure electric vehicle charge points, protect against contamination, control construction operations & hours, control lighting and future residential noise levels.

ADC PRIVATE SECTOR HOUSING - No objection. Advise several points in their response dated 10/01/22 as regards fire safety, internal room sizes, ventilation and safety of balconies which will be relevant for when a license is applied for.

ADC AFFORDABLE HOUSING MANAGER - No objection subject a s106 legal agreement to secure 7 x affordable dwellings comprising 5 x rented (2 x 1 bed & 3 x 2 bed) and 2 x First Homes (1 x 1 bed & 1 x 2 bed).

ADC STRATEGIC PROJECTS - No objection subject to a legal agreement to secure contributions towards improvements to sports, health & fitness, and swimming pool facilities in the district.

COUNCILS ECOLOGIST - No objection subject to conditions to secure the recommendations of the ecology appraisal, reptile/hedgehog mitigations, a Construction Environmental Management Plan, biodiversity enhancements and lighting. State no objection to the loss of the three Willow trees which have been inspected for bat roosts

COUNCILS ARCHAEOLOGIST - No objection: "It is unlikely that works associated with the proposal would impinge on archaeological deposits to the extent that refusal or the requirement of other mitigation

measures would be justified."

No responses from the Councils Tree Officer or the NHS.

COMMENTS ON CONSULTATION RESPONSES:

ADC DRAINAGE ENGINEERS - land level raising is necessary to achieve the requirements of the EA in respect of finished floor levels. It is also noted that the previous permission was subject to the same finished floor level condition and no drainage concerns were raised at that time.

POLICY CONTEXT

Designations applicable to site:

Within Built Up Area Boundary.

Class C Road.

Part Flood Zone 2, Part Flood Zone 3.

All Flood Zone 3a by 2061; and

Bognor Regis Neighbourhood Plan: 8i - Northern Part of Durban Road Industrial Area.

The site lies outside the Pagham Harbour Zone B.

DEVELOPMENT PLAN POLICIES

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

AHSP2	AH SP2 Affordable Housing
DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
DSP1	D SP1 Design
LANDM1	LAN DM1 Protection of landscape character
ECCSP1	ECC SP1 Adapting to Climate Change
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
HDM1	H DM1 Housing mix
HWBSP1	HWB SP1 Health and Wellbeing
INFSP1	INF SP1 Infrastructure provision and implementation
OSRDM1	Protection of open space, outdoor sport, comm& rec facilities
QEDM1	QE DM1 Noise Pollution
QEDM2	QE DM2 Light pollution
QEDM3	QE DM3 Air Pollution
QEDM4	QE DM4 Contaminated Land
QESP1	QE SP1 Quality of the Environment
SDSP1	SD SP1 Sustainable Development
SDSP2	SD SP2 Built-up Area Boundary
SKILLSSP	SKILLS SP1 Employment and Skills

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 8A	Design Excellence
Bognor Regis Neighbourhood Plan 2015 Policy 8B	Car Parking
Bognor Regis Neighbourhood Plan 2015 Policy 8i	Northern part of Durban Road Industrial Area

PLANNING POLICY GUIDANCE:

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

SUPPLEMENTARY POLICY GUIDANCE:

SPD11	Arun Parking Standards 2020
SPD12	Open Space, Playing Pitches & Indoor & Built Sports Facilities
SPD13	Arun District Design Guide (SPD) January 2021

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan and Made Neighbourhood Development Plans. The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

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. Relevant policies of the Bognor Regis Neighbourhood Development Plan are considered in this report.

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 proposed development complies with the development plan in that it would not cause demonstrable harm to the character of the area, to the amenity of neighbouring residents, harm the vitality & viability of the adjacent industrial estate or result in a severe impact on the local highway. However, there is conflict with policies designed to secure affordable housing and infrastructure contributions to offset the impact of the development.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that

(2) in dealing with an application for planning permission the authority shall have regard to -

(a) the provisions of the development plan, so far as material to the application,

(aza) a post examination draft neighbourhood development plan, so far as material to the application,

(b) any local finance considerations, so far as material to the application, and

(c) any other material considerations.

OTHER MATERIAL CONSIDERATIONS

There are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

PRINCIPLE:

The site lies within the built-up area boundary (BUAB) where development is acceptable in principle in accordance with policy SD SP2 of the Arun Local Plan (ALP) and provided it is in accordance with other policies of the Local Plan covering such issues as flood risk, biodiversity, trees, design, highway safety/parking, residential amenity, space standards, pollution, and climate change.

The wider Durban Road industrial area (including the site) is designated by the Bognor Regis Neighbourhood Development Plan (BRNDP) as a key priority site and policy 8i promotes this area for self-build/self-commissioned low carbon working and living with a mix of uses, industrial, residential, employment, small scale workshops all with a high number of jobs to floor area ratio.

The proposal for residential is in accordance with the policy and although it is not self-build or low carbon, the policy does not set these as requirements so there is no conflict. The policy states development should provide future access to the existing sewerage infrastructure. Southern Water have advised that a connection is possible.

ALP policy SD SP1 "Sustainable Development" states the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. Para 8 of the NPPF states that in order to achieve sustainable development; economic, social, and environmental gains should be sought jointly and simultaneously through the planning system.

The site lies in the BUAB and is an inherently sustainable location for new development which ensures easy access to jobs and services required for day-to-day living thus potentially supporting the local economy. The development would provide residential accommodation to meet the council's current Housing Land Supply (HLS) shortfall and would secure much needed affordable housing. The development would make an effective use of a previously developed plot surrounded by similar development and with mitigation, will not cause any harm to local biodiversity.

The proposal meets the economic, social, and environmental aspects of sustainable development and the presumption in favour of sustainable development is engaged. This states permission should be granted unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

FLOOD RISK:

Almost of all the site lies in Flood Zone 2 and the southern & eastern parts are in Flood Zone 3. In addition, the site is shown in the council's Strategic Flood Risk Assessment (SFRA) as being entirely in

Flood Zone 3a by 2061. The SFRA maps show what would happen if there were no defences from the sea or that existing ones were not maintained.

National planning guidance states a sequential site assessment is required where a site is at high risk of current or future flooding. ALP policy ECC SP1 requires that development be designed to take account of future flood risk. In addition, ALP policy W DM2 states that development in areas at risk from flooding, will only be permitted where certain criteria have been satisfied. Criteria (a) requires that a sequential assessment is provided, and this is in accordance with the NPPF (paras 159 & 162) and with para 33 (Reference ID: 7-033-20140306) of the associated Planning Practice Guidance.

The national planning practice guidance states that residential development in Flood Zone 3a is only acceptable provided that the sequential and exceptions test are met. Such development in Flood Zone 2 is acceptable subject to a sequential test.

The applicant has supplied a Flood Risk Assessment (FRA) and a separate document detailing the required sequential (ST) and exceptions tests (ET). The submitted ST considers other sites listed in the council's Strategic Housing Land Availability Assessment (SHLAA) but states that these either do not have planning permission and so are not reasonably available or are not of a size comparable with the proposed development site. The ST advises that there is no other available land of a similar size in a 3km radius available to purchase. The submitted ST is accepted, and the proposal therefore passes the sequential test.

The ET requires (1) that the proposal will provide wider sustainability benefits to the community that outweigh the flood risk; and (2) that it will be safe for its lifetime without increasing flood risk elsewhere and where possible reduce flood risk overall.

Regarding part (1), in summary, the submission states:

- The development would provide jobs in the construction industry and supply chain in the short term.
- There would be ongoing maintenance costs and services required by the occupants, which would supplement the local economy and employment opportunities in construction and in other sectors linked to the construction market.
- The Local Authority will benefit from new homes bonus and revenue in light of the council tax requirements of the properties, which arise from the site.
- Additional residents would support the nearby shops and services, which would benefit from a greater catchment population to serve.
- The proposed development would provide residential accommodation within the urban area to meet the council's current HLS shortfall.
- The development would provide an amount of affordable housing meeting a genuine housing need and providing significant social benefits as a result.
- The proposed development brings vacant land back into use; and
- The site location minimises the need to travel by private car.

In respect of part (2), the FRA proposes mitigation in the form of:

- Finished floor levels set at 2.57m AOD; and
- Ground levels set just 150mm lower.

The Environment Agency (EA) have considered the FRA and raise no objections provided that the finished floor levels proposal is secured by a condition. Therefore, the proposal is in accordance with ALP policies ECC SP1 and W DM2.

BIODIVERSITY:

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

The applicants have assessed the wildlife value of the site which is principally hardstanding but with areas of scrub and grassland. The appraisal recommended the retention of the three Willow trees and the council's ecologist considered these to be suitable for bats. However, the development proposal was clear that two of the Willows would need to be removed and a third would need to be pruned back. As such, a further survey of the Willow trees was undertaken and the Council's ecologist has accepted this survey, raising no objections to the loss of the trees.

The appraisal recommends on-site provision of swift nesting boxes, bat boxes, other bird boxes, planting to benefit pollinators and native tree species. The appraisal concludes that the site has low ecological value and as long as the enhancements are provided there will be biodiversity net gain. The council's ecologist raises no objections and there is no conflict with ALP policy ENV DM5. It is also noted that the proposal includes a green roof.

TREES & LANDSCAPING:

The proposal will result in the loss of two Willow trees and the 30% crown reduction of a third. The Tree Survey states that two of these trees are outside the site area, but the submitted tree survey plan shows two being in the site and the third outside. It is likely that the latter is correct but, in any case, all three trees are classed as moderate quality (so category B) and noted to be 17-18m high.

ALP policies D DM1, LAN DM1 and D SP1 are relevant to landscaping proposals and seek to ensure that this is an integral part of the proposal reflecting and contributing to character. ALP policy ENV DM4 requires that protected trees or those that contribute to local amenity are not damaged or felled unless the developments meets the following criteria:

- a. tree loss is in the interests of good arboricultural practice.
- b. tree loss would enhance the survival & growth prospects of other protected trees; and
- c. the benefits outweigh the loss of trees or woodland, especially ancient woodland.

The application does not respond to these criteria, but it is clear that the trees are only of moderate quality, are not protected (such that there are no controls to prevent them from being felled), there is a need in the district for more housing to contribute to the council's HLA shortfall and that the council's Tree Officer has not commented. On the basis that replacement planting is secured including new native tree spaces, then there would be no conflict with the policy.

The permission will be subject to a landscaping scheme condition to control planting across the site. The proposal accords with ALP policies D DM1, LAN DM1, D SP1 and ENV DM4.

HIGHWAY SAFETY & PARKING:

ALP policy T SP1 seeks to ensure development provides safe access on to the highway network; contributes to highway improvements (where appropriate) and promotes sustainable transport. Schemes should accommodate efficient delivery of goods and supplies; give priority to pedestrian and cycle movements, be accessed by high quality public transport facilities, create safe and secure layouts for traffic, cyclists and pedestrians and provide appropriate levels of parking. The council has a Parking Standards SPD.

BRNDP policy 8b states proposals should demonstrate through a Transport Assessment and Travel Plan they do not impact on the existing capacity of public highways to accommodate parking. The application is accompanied by a Transport Assessment and Travel Plan.

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 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."

The site will be accessed from Durban Road in a similar position to an existing access. The access will allow two cars to pass each other. This will lead into a ground floor open air (but partially covered) parking area (20 spaces) and there are 6 further parking spaces located to the sides of the access on the Durban Road frontage. WSCC Highways raise no objections to the access proposal and do not consider that the increase in vehicle trips to/from the site will be harmful to the convenience of the highway network.

As per the council's Parking Standards, the proposed 24 flats generates a parking need of 29 including 5 visitor spaces. The proposal is for only 26 spaces and so there is a shortfall of 3 spaces. Whilst the local area is noted for being subject to heavy on-street parking, the shortfall is in respect of visitor provision and given that the site lies in a highly accessible urban area location for which a car will not be necessary for day-to-day life & that 24 cycle storage spaces are provided, it would not be sustainable to refuse on this basis.

There are no conflicts with the relevant policies as identified above.

HOUSING MIX:

ALP policy HDM1 provides for a mix of housing to meet local needs and requires that all housing development should provide a mix of dwelling types and sizes to address the nature of local housing needs and market demand. It is important to highlight that the policy does not prescribe a specific housing mix that must be met by individual applications, with the policy stating that each must be considered on its own merits. The policy preamble (12.2.4) continues to acknowledge that the final mix will be negotiated on a site-by-site basis, having regard to the most up to date Strategic Housing Market Assessment (SHMA).

The 2012 SHMA was the subject of an update by GL Hearn in 2016 ("Updated Housing Needs Evidence", September 2016) in which paragraph 6.3 stated that the evidence highlighted a direction towards the provision of 2 and 3 bed units for market units and smaller affordable units. The 2016 update acknowledges at paragraph 6.10 that the analysis clearly shows the different profiles in the different broad tenures with affordable (rented) need being more heavily skewed towards smaller dwellings and market housing predominantly homes with three or more dwellings. Table 29 identifies a suggested broad mix housing by size and tenure for the District:

- 1-bed dwellings: 5-10% of all dwellings.
- 2-bed dwellings: 40-45% of all dwellings.
- 3-bed dwellings: 35-40% of all dwellings; and
- 4+ bed dwellings: 10-15% of all dwellings.

As the proposal excludes 3 and 4 bed units, it conflicts with SHMA guidance however this is not intended as one rule to cover all sites and is not always appropriate to flatted buildings. The mix is acceptable having regard to the nature of the development.

CHARACTER & DESIGN:

ALP policies D SP1 and D DM1 require development to make the best possible use of land by reflecting or improving on the character of the site/surrounding area. BRNDP policy 8a requires new development in the Durban Road area to demonstrate design excellence, to enhance local character/quality and use good quality materials.

The National Design Guide (NDG) has weight as a material consideration in the determination of this application and states achieving a well-designed place comes about through making the right choices at all levels, including the layout (or masterplan), the form and scale of buildings, their appearance, landscape, materials, and their detailing.

The Arun Design Guide (ADG) is a material consideration and Section J refers to new building design and states new development must ensure the existing character and sense of place of an area is respected and enhanced. This can allow for new design forms but only where these take cues from well-designed elements of the existing area. New development should generally reflect the scale of existing buildings and should avoid overshadowing of neighbouring properties.

The Arun Design Guide suggests a density of 60-100 dwellings per hectare in urban locations. The density is 200 per hectare which is significantly greater than the range set by the Design Guide however, it is not considered that this results in any significant harm to the character of the area and that higher density buildings are appropriate in such accessible, urban locations.

The ADG states corner buildings are afforded a degree of greater prominence within the street scene to either act as 'landmarks', provide a 'transition' between streets, and/or 'aid legibility'. Section J.03 states "The visual prominence of corner sites means they lend themselves well to accommodating ... buildings of a larger scale and distinctive design" but also that the scheme can "create an uplift in scale, where appropriate".

The scheme was subject to detailed pre-application negotiations and the advice in respect of design was to 'greatly reduce the size of the fourth-floor level and ensure it would be well set-back within the roof, so it is not readily visible in short and medium range views from surrounding streets - and omit the fifth-floor roof level communal garden'. Further comments stated that a 3-storey building (similar height to that approved under the previous application) with a set-back 4th storey could be supported but with a much smaller roof level element well set back from the front building line with a suitable perimeter roof treatment. The applicant has responded positively to these concerns, omitting a mid-floor, and setting the 4th floor element back from a parapet roof edge.

The applicant has moved away from the previous podium design approach and instead the proposal animates the streetscene by a combination of active front doors, amenity space for ground floor dwellings and communal amenity spaces. The main entrances to the building are on the Ash Grove and rear elevations. This location needs a 'lift' to the appearance of the street scene and the proposed design will achieve this creating an attractive landmark corner feature. The 4th floor will largely be hidden from view in views from the immediate public streetscene (i.e., it will only be visible from further away).

The materials are modern in appearance & style and whilst they are based on colours and types prevalent in the area, the resultant building will be different to the surrounding style. This is appropriate and is accordance with the Design Guide. The site is prominent on the junction and has a responsibility to create a gateway building which will be the catalyst of further attractive development within the immediate context.

Overall, the proposal is in accordance with the relevant policies.

RESIDENTIAL AMENITY:

ALP policy D DM1 requires there be minimal impact to users/occupiers of nearby property and land. Policy QE SP1 requires all development contribute positively to the quality of the environment and ensure development does not have a significantly negative impact on residential amenity. The Arun Design Guide sets out guidance on interface distances between dwellings and these are: 21m for back-to-back, 16m for front to front and 14m for front/back to side. In addition, where balconies face another balcony then there should be 16m between them.

The building has been purposefully set back 5m from the site boundaries in order to ensure compliance with these standards. This was a purposeful change in response to concerns raised at pre-application. There are some balconies to the upper elevations on the south and west elevations, but these are around 24.5m from facing houses to the south and 20m from those to west. Windows in the building are then slightly further back than the balconies so comply. To the east there is a light industrial building and to the north a car park associated with another. Whilst the site is currently vacant, activity levels on the site will not be out of character with the area in general and so will not lead to any harmful noise disturbance to nearby existing residential occupiers.

Overall, the proposal is in accordance with the relevant policies.

QUALITY OF ACCOMMODATION:

As per ALP policy D DM2, it is necessary to assess the proposal against internal space standards set out in the Governments Technical Housing Standards (Nationally Described Space Standard) to determine if buildings will be suitable for residential use. Section J.08 of the ADC Design SPD re-iterates this requirement.

The plans show that all 24 flats have been designed in accordance with the NDSS requirements (and in many cases exceed these). There are no policies in the ALP relating to garden sizes but section H.04 of the Arun Design Guide sets out standards for garden sizes for flats as follows:

- Private Amenity space for flats including balconies: at least 3sqm of useable space; and
- Communal Shared Spaces for flats: minimum 40sqm plus 10sqm for each unit if not provided as balcony space.

The layout shows balconies or roof gardens to all upper floor flats, and all exceed the 3m² requirement. The ground floor flats have a generous terrace space which are stated to be secluded but this will depend upon frontage boundary treatments and landscaping and may not be private spaces. In addition, an area of communal space is provided at the rear of the building. The latter does not achieve the space requirements, but this is not a policy requirement and overall, the proposal will provide a good standard of amenity for future residents and is therefore acceptable.

HOMES FOR OLDER PEOPLE:

Arun DC has an agreed internal policy on the provision of housing accommodation to provide for an ageing generation ("Accommodation for Older People and People with Disabilities", 2020). This seeks to ensure that new residential development provides for accessible & adaptable dwellings as per M4(2) of the Building Regs 2010 (as amended) and wheelchair suitable dwellings as per M4(3) category 1.

This is not adopted policy and does not have supplementary planning document status but is considered

to have some weight as a material planning consideration and is supported by references in ALP policies D DM1 & D DM2. The proposal does not specify any provision for M4(2) or M4(3) accommodation, but this can be secured by a suitable condition to secure various internal amendments. In any case, flats tend to lend themselves to being accessible for such purposes due to having level access and lifts.

POLLUTION:

Policy QE DM1 states that to safeguard the continued use of existing industrial and commercial uses and to protect amenity, noise sensitive development should not normally be permitted where there is a likelihood of complaints about noise from industrial development. This is important as the site sits on the edge of a light industrial estate where noise will be experienced during day times. In particular there is a car repair use adjacent.

The application is accompanied by a Residential Noise Survey to which the council's Environmental Health Officer (EHO) raises no objections. This states the building will be fitted with a sound insulation scheme to include glazing and alternative ventilation. These recommendations are predicted to achieve the internal noise levels specified in BS8233:2014. and indicate that sound from JG Auto Electrics and Servicing is unlikely to have adverse impact even when the worst-case is considered, and as a result, a suitable acoustic environment should be achieved without the implementation of further mitigation measures. Whilst there is technically conflict with the policy, it is material that the EHO raises no concerns and instead request a condition to enforce the proposed mitigation measures.

ALP policy QE DM2 states outdoor lighting should not have an adverse impact on neighbouring uses or the wider landscape, particularly with regard to the South Downs International Dark Sky Reserve designation. Further, that schemes proposing outdoor lighting be accompanied by an assessment.

The Design and Access Statement states the external core entrances and basement parking area will be well lit with dedicated lighting. There will also be well lit pedestrian routes across the site. There are existing street lighting columns in the area. Notwithstanding the policy wording, it is appropriate to reserve lighting to a condition. The council's EHO raises no concerns.

ALP Policy QE DM3 requires that major developments be in easy reach of established public transport services, maximise provision for cycling & pedestrian facilities, include electric car charging points and contribute towards the improvement of the highway network.

The proposal provides for electric car charging points in 20 of the 26 parking spaces and provides a 24-cycle storage space. The site is in easy walking and cycling distance of nearby shops, services, facilities, and places of work plus there are regular buses in the area and a railway station in the centre of Bognor Regis. The proposal accords with the policy, and it is also noted that the council's EHO raises no concerns. The submitted energy strategy states the development will achieve a 24.53% reduction in CO₂ emissions through use of materials/construction and passive design features.

Therefore, there are no conflicts with the relevant policies.

CONTAMINATION:

ALP Policy QE DM4 states development will be permitted on land that is contaminated as long as remediation is provided. The submitted Preliminary Land Investigation recommends that an intrusive ground investigation be undertaken to verify the assumptions made in the preliminary conceptual site model and to provide data for foundation design.

The council's EHO has raised no objections subject to standard contamination conditions. With these

conditions in place, remediation can be secured should any contamination be discovered and as such the proposal will be in accordance with the policy.

TELECOMMUNICATIONS:

ALP policy TEL SP1 state all proposals for new residential, employment and commercial development must be designed to be connected to high quality communications infrastructure. These policies will be adhered to by means of a condition to require evidence of such a connection before the homes are occupied. On this basis, there is no conflict with the policies.

CLIMATE CHANGE/SUSTAINABLE CONTRUCTION:

ALP policy ECC SP2 requires that all new residential and commercial development be energy efficient and incorporate decentralised, renewable, and low carbon energy supply systems. ECC SP1 requires that new development be designed to adapt to impacts arising from climate change.

The application includes an Energy & Sustainability Strategy which states the development will achieve a 24.53% reduction in CO2 emissions through use of materials/construction and passive design features. In addition, the use of PV solar panels on the roof and accompanying energy storage has potential to secure a greater CO2 saving and provide for 26% of the developments' energy needs.

A condition is imposed to ensure that full details of these measures are provided and to ensure that they are taken forwards. A further condition is included to secure the proposed electric vehicle charge points. Subject to the conditions being discharged, the proposal would comply with policies ECC SP1 and ECC SP2.

AFFORDABLE HOUSING:

Developments over 11 residential units require a minimum provision of 30% affordable housing on site as per ALP policy AH SP2. The council recently adopted an interim affordable housing policy which sets out the need to secure first homes as part of the affordable housing mix. As at March 2022, there were 1299 households in housing need on the council's housing register.

The Housing Strategy and Enabling Officer stated the application should provide seven affordable dwellings comprising 5 x rented (2 x 1 bed & 3 x 2 bed) and 2 x First Homes (1 x 1 bed & 1 x 2 bed). The submitted planning statement does not reference First Homes and so the tenure mix in the Statement versus the comments is different, but this does not require any layout or design changes and would be enforced through a s106 agreement. Subject to the applicant agreeing to these through a s106 legal agreement, there would be no conflict with ALP policy AH SP2.

PUBLIC OPEN SPACE & PLAY:

ALP policy OSR DM1 requires that housing developments provide sufficient public open space, playing pitch provision and indoor sport & leisure provision. In addition, policy HWB SP1 seeks to ensure that new development is designed to maximise the impact it can make to promoting healthy communities and reducing health inequalities. This site is in a sustainable urban location and will promote walking and cycling with easy access to public parks and cycle lanes. There are leisure and cultural buildings nearby or in easy reach from the railway station.

The council's supplementary planning document (SPD) "Open Space, Playing Pitches, Indoor and Built Sports Facilities" (January 2020) does not state any requirements for on-site public open space (POS) or play facilities for a development of this size. However, as confirmed by advice from consultees, the SPD

does set out a requirement for contributions towards local POS & play spaces, health & fitness, sports & leisure facilities. The requirements are considered to meet the CIL tests (Regulation 122 of the Community Infrastructure Levy Regulations 2010) and as flatted developments in this location are zero rated for CIL it is still possible to secure off-site financial contributions through a S.106 Legal Agreement.

Subject to the applicant agreeing to these through a s106 legal agreement, there would be no conflict with ALP policies OSR DM1 and HWB SP1.

SUPPORTING INFRASTRUCTURE:

ALP policy INF SP1 requires development proposals provide or contribute towards the infrastructure & services needed to support development to meet the needs of future occupiers and existing community. The council received a request from WSCC for contributions towards specific projects at sites in the area. The requirements meet the CIL tests (Regulation 122 of the Community Infrastructure Levy Regulations 2010). Subject to the applicant agreeing to these through a s106 legal agreement, there would be no conflict with ALP policy INF SP1.

SECTION 106 AGREEMENT:

The following Heads of Terms were put to the applicant's agent in writing on 06/02/22 with a request for the applicant to agree these and also provide their solicitor details:

- provision of 2 x 1 bed flat & 3 x 2 bed flat (Affordable Rented) and 1 x 1 bed flat & 1 x 2 bed flat (First Homes).
- a contribution of £47,308.80 towards open space improvements at Berghestede Park in Bersted.
- a contribution of £41,527.20 towards play equipment improvements at Berghestede Park in Bersted.
- a contribution of £9,569 towards provision of additional multi use sports hall/flexible activity/studio space and dry changing to increase capacity and overall customer experience at Arun Leisure Centre and/or towards provision of additional multi use sports hall/flexible activity/studio space in the West of the District.
- a contribution of £3,200 towards additional provision of health & fitness facilities for the West of the District.
- a contribution of £10,584 towards the expansion and reconfiguration of wet side changing rooms at Arun Leisure Centre and/or towards provision of wet side changing rooms as part of a new leisure centre for the West of the District.
- a contribution of £13,849 to be spent on additional facilities at South Bersted CofE Primary School.
- a contribution of £32,665 to be spent on additional facilities at Felpham Community College.
- a contribution of £3,492 to be spent on additional facilities at Felpham Community College Sixth Form.
- a contribution of £4,778 to be spent on providing additional facilities at Bognor Regis Library; and
- a contribution of £431 to be used towards supply and installation of additional fire safety equipment/smoke alarms to vulnerable persons homes in West Sussex Fire Rescue Services Southern Area serving Bognor Regis.

The agent responded on 08/02/22 with the solicitor details and it was assumed that the applicant agreed to the contributions (but this was never explicitly stated). Subsequently on 15/09/22, during the drafting of the agreement, the applicant's solicitor advised that they did not agree to the level of contributions sought and instead requested contributions in line with the agreement imposed on BR/90/18/PL. However, that previous agreement concerned a development of 14 flats whereas the current application is for 24, there are now additional First Homes requirements and ADC have adopted a new Open Space SPD since then. As flats are not liable for CIL, the Local Planning Authority is able to use s106 to secure contributions towards Open Space/Play/Leisure/Sports in accordance with the SPD alongside education/libraries/fire. Finally, all contributions are index linked and so will have increased since the

previous agreement.

ALP policies INF SP1 & OSR DM1 do not set out any guidance on the use of viability assessments to reduce or remove the infrastructure requirements. However, paragraph 58 of the NPPF states that where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker. All viability assessments should reflect the recommended approach in the NPPG. The applicant disagrees with the level of the contributions requested but has not submitted any viability evidence (or indicated that they will do so). The Local Planning Authority are not able to remove or reduce the levels of requested contributions. There is conflict with ALP policies AH SP2, INF SP1, HWB SP1 & OSR DM1 of the Arun Local Plan, the council's supplementary planning document "Open Space, Playing Pitches, Indoor and Built Sports Facilities" (January 2020) and the NPPF.

SUMMARY:

The development would represent a small boost to the council's current HLS shortfall, meets the definition of sustainable development, is generally policy compliant and an approval would accord with para 11c of the NPPF. However, the applicant will not agree to the affordable housing requirements or the level of required contributions to off-set the impact of the development on local infrastructure and as such it is not possible to approve the development.

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 In the absence of a signed Section 106 agreement, the development makes no provision for contributions to off-site public open space, off-site children's play space, off-site playing pitches, off-site built sports & leisure facilities or education/library/fire & rescue improvements, and is thereby contrary to the aims and objectives of the NPPF, policies INF SP1, HWB SP1 & OSR DM1 of the Arun Local Plan and the Council's supplementary planning document "Open Space, Playing Pitches, Indoor and Built Sports Facilities" (January 2020).
- 2 In the absence of a signed Section 106 agreement, the development fails to make any affordable housing provision contrary to the aims and objectives of the NPPF and policy AH SP2 of the Arun Local Plan.
- 3 **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(s) for the refusal, approval has not been possible.