

Recommendation Report for Planning Permission

REF NO: BR/281/18/PL

LOCATION: 99 Victoria Drive
Bognor Regis
PO21 2DZ

PROPOSAL: Demolition of existing dwelling & erection of a three story building to provide 9 No. flats, 6 No. 1 bed & 3 No. 2 bed units with associated amenity areas, access & car parking.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The new flatted building will have three floors, each with 3 flats. It will have a front building line similar to 97 & 103 but further forward than the flatted building at 101. The submitted streetscene shows that whilst the building will be 2.1m higher than 97, it will also be 1.2m lower than 101 which it is closer to. The external layout details 9 parking spaces with a new access from Victoria Drive (situated between 97 and the new flatted building). The layout also shows an enclosed bin storage area at the front, cycle store to the rear, a small communal rear lawn and the planting of 4 new trees to the rear. Flats 2 & 3 are shown to have an external patio whilst flats 4, 5, 6, 7 & 9 have a balcony space. Balconies are shown to have 1.7m high obscure glazed side screens.
SITE AREA	0.0981 hectares.
RESIDENTIAL DEVELOPMENT DENSITY	92 dwellings per hectare.
TOPOGRAPHY	Predominantly flat.
TREES	The site was cleared of most of the on-site trees prior to the application submission. Only one tree remains and this is a Holly of moderate condition and poor form, growing tight against a boundary wall in the north-west corner of the plot. However, there are also significant off-site trees including a large, mature Beech tree and a group of Holm Oak to the rear of the neighbouring property (101 Victoria Drive).
BOUNDARY TREATMENT	- Circa 1.8m concrete block wall to the rear boundary; - Circa 1.8m concrete block wall to the side boundary of the rear garden with 101; - Mix of side garage wall and low circa 1.2m brick wall to the front side boundary with 101; - Mix of 1m high, 1.8m high close boarded fencing and the side wall of an outbuilding to side boundary with 97; and

SITE CHARACTERISTICS	- 1m brick wall to front. Existing detached two storey, three bedroom dwelling with front and rear gardens. Garage, car port and driveway on north-eastern side.
CHARACTER OF LOCALITY	Located within a residential street predominantly characterised by large two storey semi and detached dwelling houses. However, the following are also noted within the streetscene: 93 - Dwelling offering B&B accommodation (Selwood Lodge); 100 - House previously converted into flats; 101 - Three storey flatted building comprising 6 flats; 107 - Backland development of 6 houses (Imperial Court); and 109-111 - Burlington Nursing Home. The flats at 101 have flank facing secondary lounge and bathroom windows at ground and first floors and flank facing secondary lounge and bedroom windows at second floor. All of these are obscure glazed. Meanwhile, no. 97 has no flank windows but does have a ground floor door on its flank. No. 97 only has a relatively shallow rear garden and there is then an outbuilding and garden land owned by no. 95.

RELEVANT SITE HISTORY

BR/155/06/	Approval of reserved matters following outline consent BR/280/05 for demolition of existing dwelling and garage and erection of 6 new flats.	ApproveConditionally 29-06-06
BR/280/05/	Outline application to demolish existing dwelling and erect 6 new flats.	ApproveConditionally 26-10-05

BR/280/05/ and BR/155/06/ relate to the flatted building next door at 101.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Bognor Regis Town Council
No objection.

29 letters of objection have been received from local residents. The concerns are summarised below:

- (1) Loss of light to 95 & 97's rear gardens;
- (2) Overlooking of 95's rear garden and it's house plus Hillsboro Road houses to the rear;
- (3) No mention on plans of obscure glazing to windows;
- (4) Noise disturbance from cars using the rear parking area;

- (5) Noise from occupants of flats;
- (6) Light pollution from new flats;
- (7) Inadequate parking leading to conflict with other residents for on-street spaces and traffic congestion;
- (8) Harm to highway safety due to proximity to a busy roundabout;
- (9) Pagham Harbour S.106 confirms no works has commenced at the property yet external clearance has been going on for months;
- (10) Loss of wildlife habitat (rear garden);
- (11) Loss of trees;
- (12) Increased flood risk from surface water runoff;
- (13) Already too much high-density housing on Victoria Drive;
- (14) Harm to character of Victoria Drive;
- (15) Conflicts with ADC desire to designate Victoria Drive as an "Established Residential Area" as reported in Bognor Regis Observer on 27/07/89;
- (16) Bognor Regis Town Council may have objected if they had been aware of the local resident objections;
- (17) Increased risk of crime in the area due to the car parking; and

COMMENTS ON REPRESENTATIONS RECEIVED:

The following comments are offered in response to the objections:

- (1) This will be considered in the report's conclusions under "Residential Amenity" however it should be noted that the proposed building is to be located to the north and north east of these two dwellings;
- (2) This will be considered in the report's conclusions under "Residential Amenity";
- (3) An amendment has been obtained since this comment was made and the flank first & second floor windows are now shown as obscure glazed;
- (4) - (6) These will be considered in the report's conclusions under "Residential Amenity";
- (7) - (8) These will be considered within the "Highways and Parking" section of the conclusions section;
- (9) The external works that have been carried out at the site did not require planning permission. The references to commencement within the legal agreement relate to the implementation of that agreement;
- (10) Noted however, as the garden habitat has been removed it is not possible to consider this in this report. If any member of the public has evidence that someone has harmed protected wildlife species (e.g. bats) or their habitats then they are able to report this to Sussex Police;
- (11) Noted however, none of the trees that have been removed were protected therefore the Council was not able to prevent their loss;
- (12) Council drainage engineers have appraised the application and do not raise any objection. Drainage would be considered by the planning condition process post decision;
- (13) - (14) These will be considered in the report's conclusions under "Design & Character";
- (15) It is not known what this newspaper article refers to however, there are currently no specific policy designations in place to protect the character of Victoria Drive;
- (16) Noted however the Town Council could have issued further comments if they had considered it necessary to do so; and
- (17) Crime levels in the area are a matter for Sussex Police. However, the new car park will have active surveillance from all surrounding residential properties.

CONSULTATIONS

Environmental Health

Engineering Services Manager

Engineers (Drainage)

WSCC Strategic Planning

Parks and Landscapes

Arboriculturist

CONSULTATION RESPONSES RECEIVED:

WEST SUSSEX COUNTY COUNCIL (WSCC) HIGHWAYS: Raise no objection subject to conditions to secure parking/turning, cycle storage and a Construction Management Plan. Comment that:

- The courtyard is large enough to allow parking and manoeuvring and thus allows cars to enter and exit in a forward gear;
- The driveway is wide enough to allow two cars to pass each other;
- 1 space per flat is acceptable having regard to WSCC car parking standards;
- Whilst there is no visitor parking provision, this can be safely accommodated on surrounding streets;
- A pedestrian footway wraps around the building providing a safe pedestrian link from the highway into the site;

ARUN DISTRICT COUNCIL (ADC) DRAINAGE ENGINEERS: Raise no objection subject to a standard surface water drainage condition. State that soakaways must be investigated for surface water disposal.

ARUN DISTRICT COUNCIL (ADC) TREE OFFICER: Initially raised an objection on grounds of an absence on tree reports/details of protection.

However, following receipt of the requested documents, the Tree Officer has written to withdraw the objection. He notes that the arboricultural survey information and associated documents/plans provided demonstrate adequate regard and respect for the tree population at and immediately around the site. Conditions are recommended to ensure that the development proceeds with in accordance with the approved tree protection details and that no work commences until the tree protection has been checked on-site by the Tree Officer.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designations applicable to site:

Within the Built Up Area Boundary;

Class C Road;

Pagham Harbour Zone B;

Within 2km buffer zone of Bognor Reef Site of Special Scientific Interest (SSSI); and
WSCC Waste Consultation Area (Alderton's Yard, Town Cross Avenue site).

DEVELOPMENT PLAN POLICES

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

DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
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
QESP1	QE SP1 Quality of the Environment
QEDM1	QE DM1 Noise Pollution
QEDM2	QE DM2 Light pollution
SDSP1	SD SP1 Sustainable Development
SDSP1A	SD SP1a Strategic Approach
SDSP2	SD SP2 Built-up Area Boundary
TDM1	T DM1 Sustainable Travel and Public Rights of Way
TSP1	T SP1 Transport and Development
WDM1	W DM1 Water supply and quality
WDM3	W DM3 Sustainable Urban Drainage Systems
WSP1	W SP1 Water
WMDM1	WM DM1 Waste Management

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

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

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

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area.

There are no relevant Bognor Regis Neighbourhood Plan policies.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

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

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

The proposal is considered to conflict with the Arun Local Plan in that the proposed rear parking area together with the design of the building will adversely affect the amenity of the residential amenities of the adjoining properties particularly 97 Victoria Drive but also the gardens of other adjoining properties.

OTHER MATERIAL CONSIDERATIONS

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

CONCLUSIONS

PRINCIPLE:

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

Regard should also be had to policy SD SP1 of the ALP which states that: "When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework (NPPF)." The site is in a sustainable location within walking and cycling distance of a range of shops, facilities and services including bus stops, a large food store, schools, medical services and a railway station.

NPPF para 118(d) states "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".

Furthermore, paragraph 123 states that where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site. In particular, higher densities will be encouraged for city/town centres and other locations that are well served by public transport.

Although the site is located within the built up area boundary, the proposal would not comply with policy SD SP2 due to conflict with other policies within the Plan. However, the proposal does comply with policy SD SP1

CHARACTER & DESIGN:

Local residents object on the grounds that there is already too much high-density housing on Victoria Drive and that the proposal will result in harm to the character of Victoria Drive.

Policy D DM1 of the Arun Local Plan requires that the Council seek to make the best possible use of the available land by reflecting or improving upon the character of the site and the surrounding area. It also requires the Council to consider scale, massing, aspect, siting, layout, density, building materials, landscaping, and design features. It is also necessary that development demonstrates a high standard of architectural principles, use of building materials and hard and soft landscaping to reflect the local area. In terms of density, D DM1 requires that new housing makes efficient use of land while providing a mix of dwelling types and maintaining character and local distinctiveness. However, higher densities will be more appropriate in the most accessible locations. The policy also requires that the scale of development keep within the general confines of the overall character of a locality.

ALP policy D SP1 "Design" requires development to make an efficient use of land and also reflect local character. In addition, para 127 of the NPPF requires developments to be visually attractive and sympathetic to local character and history.

The "Character of Locality" section above gives other examples of higher density residential development on Victoria Drive (and indeed there is a building comprising 6 flats adjoining the site). This is evidence that Victoria Drive is already characterised by such development and that proposals for higher density residential development in the streetscene are not necessarily harmful to the character of the area.

The proposed building itself is considered to be in character in terms of scale and front building line with others in the streetscene. Whilst there are no other examples of front balconies within the streetscene, there is also no set form or design to other buildings on Victoria Drive. The use of front gables is however similar in design to no. 101.

The proposed building will be 2.1m higher than no. 97 but 1.2m lower than no. 101. However, the difference in respect of 97 is not considered to be unacceptably harmful to the streetscene given the 6.7m gap between these two buildings. The application suggests materials in the form of concrete roof tiles, facing bricks and vertical stained Larch or Cedral cladding. A condition could be imposed to require approval of the exact colours post decision. A landscaping scheme could also be sought to ensure that the new trees and other planting as shown on the proposed site plan are provided.

The proposal is considered to comply with policies D DM1 & D SP1 and with the guidance on design within the NPPF (para. 127).

RESIDENTIAL AMENITY:

Local residents raise the following concerns:

- Loss of light to 95 & 97's rear gardens;
- Overlooking of 95's rear garden and it's house plus Hillsboro Road houses to the rear;
- Noise disturbance from cars using the rear parking area;
- Noise from occupants of flats;
- Light pollution from new flats;

Policy D DM1 requires the Council have regard to certain aspects when considering development including having minimal impact to users and occupiers of nearby property and land. Policy QE SP1 states: "The Council requires that all development contributes positively to the quality of the environment and will ensure that development does not have a significantly negative impact upon residential amenity". Regard should be had to para 127 of the NPPF which states that developments should provide a high standard of residential amenity for existing and future users.

Policy QE DM1 provides guidance in respect of new noise generating development and states that applications should be accompanied by a noise assessment. However it is not considered relevant to require a noise assessment for new residential development located in a residential area. Policy QE DM2 refers to light pollution but is only relevant in respect of outdoor lighting therefore cannot be applied to concerns over the lighting of interior accommodation. It is not necessary to control external lighting as this is a residential area.

It is not considered that the new building will take light away from the dwellings to the south west. The new building is north and north east of these properties and will not therefore interfere with the position of the sun other than possibly on a small scale during the morning hours. The proposal is likely to have more impact on the rear communal gardens of 101 but this is not considered to be harmful as the new building will have a similar rear building line to 101.

Although light is not considered to be an issue, it is also necessary to consider whether a proposed development will have an overbearing impact on its neighbours. The proposed building will be three stories high and will project 10m to the rear of no.97. Whilst there is a gap between the two buildings, it is considered that the enjoyment of the rear of 97 will be adversely affected by the new building and that this is not mitigated sufficiently by the gap.

The applicant has agreed to obscure glaze the proposed upper floor windows on the flank elevations of the building. These windows will also be non-openable below 1.7m. This will ensure that there is no direct overlooking of the existing windows in the flank of 101 or of the rear gardens of 97. However, there will remain a perceived fear of overlooking which will have an impact on the occupiers of 97 (and to a lesser extent 95) to properly enjoy their private gardens.

The proposed rear balconies will have 1.7m high obscure glazed side screens and will therefore prevent future residents from looking sideways at the neighbouring gardens.

It should be noted that there will be a distance of at least 34m between the rear balcony on the proposed building and the closest house on Hillsboro Drive. This is more than sufficient to protect the privacy of the Hillsboro Road residents (20m is considered to be the minimum distance for back to back arrangements).

The new access proposal will create a new driveway into the rear of the site which will pass close to the side of 97. Furthermore, the parking area will adjoin with the gardens of 95 & 101 Victoria Drive and 9, 11 & 15 Hillsboro Road. There is therefore the potential for noise from cars to adversely affect the amenity of adjoining residents through the comings and goings of vehicles, noise from engines and doors and from headlights. The applicant has shown new acoustic fencing along the boundary with 95/97 plus a strip of planting between the rear of the car park and the boundary with Hillsboro Road. Furthermore, the boundary to 101 is formed by a concrete block wall.

However, the proposed parking and vehicle movement space will still be almost up to the boundaries and no amount of boundary treatment or planting will prevent noise disturbance to neighbouring land from the movement of cars, the running of engines, occasional car maintenance and the opening of car doors etc. There will be a change to the character of this part of Victoria Drive and there are no other examples of such back land car parking/access road between two properties within the immediate streetscene. The flats at 101 next door have parking to the front thus preventing any harm to neighbouring rear gardens.

The proposal therefore conflicts with policies D DM1 and QE SP1 as well as the guidance on amenity within the NPPF (para. 127) in respect of creating a fear of overlooking to 95 & 97, having an overbearing impact on no. 97 and introducing noise disturbance to the side of 97 and to the adjoining rear gardens.

INTERNAL & EXTERNAL SPACE STANDARDS:

Policy D DM2 states: "The planning authority will require internal spaces to be of an appropriate size to meet the requirements of all occupants and their changing needs. Nationally Described Space Standards will provide guidance". It is therefore necessary to assess the proposal against internal space standards set out in the Governments Technical Housing Standards (Nationally Described Space Standard) to determine if the building is suitable for residential use. The following is a breakdown of the proposals versus the space standards:

Flat - Storeys/Beds/Persons - Requirement - Proposed - Compliance (Y/N)

1 - 1S/1B/2P - 50m2 - 50m2 - Y

- 2 - 1S/1B/2P - 50m² - 50.7m² - Y
- 3 - 1S/2B/3P - 61m² - 63.5m² - Y
- 4 - 1S/1B/2P - 50m² - 50m² - Y
- 5 - 1S/1B/2P - 50m² - 50.7m² - Y
- 6 - 1S/2B/3P - 61m² - 63.5m² - Y
- 7 - 1S/1B/2P - 50m² - 50m² - Y
- 8 - 1S/1B/2P - 50m² - 50.7m² - Y
- 9 - 1S/2B/3P - 61m² - 63.5m² - Y

Therefore, all of the flats comply with the standards in respect of internal space.

D DM1 refers to the need for compliance with the Arun Design Guide. This is to part replace D DM3 "External Space Standards" which was deleted at the request of the Local Plan Inspector. Until this Design Guide is published, there is no policy within the ALP regarding private gardens sizes. Para 127 of the NPPF states that planning decisions should ensure that developments have a high standard of amenity for existing and future users. The scheme includes a communal rear garden space and also private balconies for 5 of the flats. A further two will have a semi-private patio space.

The proposal complies with policies D DM1 & D DM2 and with the guidance within the NPPF (para. 127).

HIGHWAYS & PARKING:

Local residents object on the grounds that there is inadequate parking which will result in conflict with other residents for on-street spaces and cause traffic congestion. Also that the proposal will be harmful to highway safety due to the proximity of the site to a busy roundabout. With regard to the latter, it should be noted that the site is 68m from the edge of the roundabout and that there are 4 properties closer to it on this side of Victoria Drive.

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

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

Policy T DM1 requires that new development be located within easy access of established non-car transport modes/routes and also seek to contribute to the improvement of such routes & facilities.

Para 108 of the NPPF states: "In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that: (b) safe and suitable access to the site can be achieved for all users". Regard should be had to para 109 which 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."

WSCC Highways have assessed the application but raise no objections in respect of safety and therefore, it would not be possible to sustain a refusal on these grounds. In respect of parking, WSCC consider that the proposed provision is in accordance with their standards. They note that there is no guest parking but consider that this can be provided on local roads without causing harm to highway safety. It is acknowledged that local residents consider that on-street parking on Victoria Drive and surrounding streets is at a premium, however, this is not a reason to prevent such a development

particularly the sustainable location of the site within easy reach of bus stops, the railway station and other facilities. It is also not considered that increased demand for on-street parking would be harmful to the amenity of local residents or to the appearance of the streetscene

The proposal therefore accords with T DM1 and T SP1 of the ALP and with the guidance on highway safety and parking within the NPPF.

IMPACT ON THE PAGHAM HARBOUR SPECIAL PROTECTION AREA:

Policy ENV DM2 requires that 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 site is within the designated Zone B and it was therefore necessary to apply this requirement. The net increase in 8 dwellings (9 flats - 1 house = 8) results in a contribution of £6,968 and this is secured by a signed legal agreement. Therefore, there is no conflict with policy ENV DM2.

SUMMARY:

Whilst the proposal does represent an efficient use of urban brownfield land, it is considered that the impacts set out above in respect of harm to residential amenity suggest that the amount of development is excessive and represents an overdevelopment of the plot. It is noted that the existing flatted building at 101 has only 6 flats and is able to provide parking to the front where it does not disturb the side or rear of neighbouring properties. It is therefore considered that the application should be refused for the following reasons.

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

This decision will be granted with a S106 legal agreement relating to a contribution of £6,968 towards the provision of accessible natural open green spaces to offset the impact of the development on the Pagham Harbour Special Protection Area.

RECOMMENDATION

REFUSE

- 1 The proposed building due to its height and depth will have a harmful overbearing impact on the amenity of the occupiers of no. 97 and their ability to properly enjoy their rear garden and this will also affect their quality of life particularly given the perceived overlooking from the proposed flank windows (which may also affect the enjoyment of no. 95's rear garden) and as such the proposal is in conflict with policies D DM1 and QE SP1 of the Arun Local Plan and paragraph 127 of the National Planning Policy Framework.
- 2 The proposed creation of a rear car park and the associated comings and goings along the access between the new building and no. 97 will have a harmful impact in terms of noise disturbance on the living conditions of no. 97 and the residential gardens of other dwellings which adjoin the rear of the site and as such there is conflict with policies D DM1 and QE SP1 of the Arun Local Plan and paragraph 127 of the National Planning Policy Framework.
- 3 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and 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.