

Recommendation Report for Planning Permission

REF NO: BR/282/19/PL

LOCATION: The Beach Hotel, former Mud Club &
2-4 Waterloo Square
Bognor Regis
PO21 1SU

PROPOSAL: Redevelopment into 35 No. 1 & 2 bed apartments and 3 No. commercial units (A1 Retail or A3 Restaurant/Cafe). This application affects the character & appearance of The Steyne, Bognor Regis Conservation Area & may affect the setting of a listed building.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

The application proposes to redevelop this vacant site with two separate buildings with a pedestrian walkthrough link between the two (connecting Waterloo Square with Norfolk Street). The larger of the two buildings fronts onto the Esplanade and will have 5 storeys and a 6th in the roof with a height of around 19.8m. The second building sits behind and is lower at 4 storeys with a 5th in the roof (around 16m high).

The ground floor comprises of three commercial units (cafe or retail of 40m², 90m² & 225m²), a residential bike store (36 cycles), a commercial bike store, plant area, 2 residential bin stores, a retail bin store, the pedestrian walkway, 5 parking spaces and a delivery loading area accessed from Norfolk Street. There is limited scope for landscaping but some small trees could be planted along the pedestrian walkway which will also allow for some external seating for the cafe uses. Customer cycle spaces are also proposed on the site frontages. The remaining floors will comprise of 35 no. 1 or 2 bed flats. Some of the flats will have roof terraces or balconies.

As per the drawings, the proposed materials consist of:

1. White coloured Facing Brick;
2. Dark Grey coloured Standing Seam;
3. Vertical through colour render;
4. Dark Grey/Black coloured metal railings;
5. Expressed horizontal detail banding; and
6. Dark Grey powder coated metal profiles.

It should be noted that this is a revision of the original scheme (which proposed a single 7 storey building (maximum height of 23m) with 2 commercial units at ground floor, 49 flats above

	and a 22 space basement car park).
SITE AREA	0.1 hectares.
RESIDENTIAL DEVELOPMENT DENSITY (NET)	35 dwellings = 350 dwellings per hectare.
BOUNDARY TREATMENT	There are no boundary treatments and the site is currently enclosed by temporary hoarding.
SITE CHARACTERISTICS	The application site is currently vacant having been in part subject to a fire and demolition and in part demolished due to concerns with the part of the site that had survived the fire (see BR/191/18/PL). It had formerly been occupied by a mix of buildings up to a total of three storeys in height. On-street parking is very limited and either pay & display or resident permit only.
CHARACTER OF LOCALITY	The site is part of the Bognor Regis seafront. It is located outside of the primary retail area but includes a mix of retail (including restaurants & bars), leisure (including hotels) and residential uses. In addition, the Grade II Listed Bognor Regis Pier is located diagonally opposite the site to the southwest. The centre of Waterloo Square contains a bowling green and public gardens. Neighbouring uses include: - 6-8 Waterloo Square - a commercial arcade at ground floor with two floors of residential flats above. No obvious window openings overlooking or the site or otherwise affected. - Norfolk Street - a casino on the corner of Norfolk Street/The Esplanade with two to three floors of residential flats above. The next property north up Norfolk Street has first floor flats (forming the rear of 24 Lennox Street) facing the site. Beyond this is a building in solely commercial use.

RELEVANT SITE HISTORY

BR/191/18/PL	Demolition of 2 & 3 storey building with mixed use (commercial & dwellings). This application affects the character and appearance of The Steyne, Bognor Regis Conservation Area	Approve 08-03-19
BR/143/18/PL	Change of use from vacant arcade (Sui Generis) to include A1 (Shops), A3 (Restaurant & Cafe) & A4 (Drinking Establishment) & outdoor seating area, change of ground floor external facade & installation of external bin store. This application affects the character & appearance of The Steyne Conservation Area.	ApproveConditionally 04-10-18
BR/239/11/	Conversion of existing nightclub premises into two town	App Cond with S106

The site was previously occupied by a restaurant with ancillary takeaway fish & chip shop and night club premises above. The units fronting Waterloo Square were previously in a commercial use with residential flats above.

Application BR/239/11 was not implemented and expired in June 2016. There was then a fire on the site in November 2016 and this led to the demolition and clearance of several of the badly damaged buildings.

Pre-application advice was given in May 2017 concerning a proposal to erect a new 4-6 storey building comprising of 44 basement residential parking spaces, ground floor retail & restaurant space and 46 flats spread over the 1st, 2nd, 3rd, 4th & 5th floors. At this time it was concluded that it would likely be refused for the following reasons:

- No case made for the proposed provision of retail premises on this outside of town centre site;
- Conflict with Bognor Regis Neighbourhood Development Plan Policy 3 (Old Town Restaurant & Cultural Quarter);
- Quality of design & impact on the Conservation Area;
- Quality of the proposed residential accommodation;
- A case needs to be made for the demolition of the remaining buildings of character;
- Concerns with the on-site refuse strategy;
- Residential amenity issues re the relationship of the two 'blocks' to each other and the relationship to existing buildings along Norfolk Street;
- Lack of sufficient external amenity space; and
- Concerns with the servicing and parking arrangements."

An application was then received in July 2018 (ref BR/191/18/PL) for the demolition of the remaining 2 & 3 storey building (2-4 Waterloo Square). Despite conflict with planning policies, this was approved in March 2019 with the conflict with the development plan outweighed by a Demolition Order that had been served under the Housing Act.

A second pre-application enquiry was received in November 2018 and sought advice on a new 8 storey mixed-use development to consist of 3 retail units at ground floor with 55, 1 & 2 bed residential units above. A decision letter was issued in April 2019 and concluded that it would likely be refused as a result of the following issues/concerns:

- Not clear as to whether any class A1 retail units are proposed (which would be in conflict with policy 3 of the BRNDP);
- Residential amenity issues re the relationship of the new building to existing residential development to the north and east;
- How the building relates to nearby buildings and the Conservation Area; and
- Harm to the Conservation Area and other nearby heritage assets principally due to the height/massing of the proposed building.

Application BR/143/18/PL concerns an adjacent building (6-8 Waterloo Square) and is referred to elsewhere in this report.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Bognor Regis Town Council

TOWN COUNCIL:

Bognor Regis Town Council have objected and their comments are set out in full on the Council's website. In summary their objection is that:

- The site previously contained Buildings of Character and therefore the proposal is in conflict with ALP HER DM2;
- The proposed design is well below the quality of design that is required for this important location and is unsympathetic to surrounding built form therefore fails to respect character of the surroundings;
- Proposal will cause harm to the nearby Listed Buildings and the Conservation Area;
- Overdevelopment of the site, excessive scale & massing and insufficient parking provision;
- Lack of sufficient affordable housing;
- Impact on amenities of residential properties to the north & east; and
- No shadow analysis carried out.

OTHER INTERESTED PARTIES:

A total of 28 objections were received to the original scheme. Following re-consultation, a further 11 letters were received, 7 objections and 4 support.

The supporters state that:

- (a) the site will finally be redeveloped;
- (b) the proposal is in keeping with the surroundings;
- (c) the commercial floorspace will be positive for tourism and the economy
- (d) the proposal represents good design; and
- (e) the apartments will assist with the current housing shortage.

The objectors raise the following material planning concerns:

- (1) Building is too high;
- (2) Should not be higher than Cavendish House;
- (3) Inappropriate design;
- (4) Not in character with surroundings;
- (5) Roof Access Hatch/Lift Overrun 'Shed' on the roof is out of character;
- (6) White colour is inappropriate and will weather badly;
- (7) Building should be coloured to match Cavendish House/Waterloo Court;
- (8) Proposal does not complement the Old Town or Conservation Area;
- (9) Harm to setting of the Listed Pier;
- (10) Harm to future plans for the Old Town quarter;
- (11) Don't need new retail;
- (12) Loss of previous first floor commercial use (Nightclub);
- (13) Bognor Regis already has enough flats;
- (14) Future flood risk to the ground floor;
- (15) Harm to future residents amenity from the night club on the Pier opposite; and
- (16) Insufficient parking;

COMMENTS ON REPRESENTATIONS RECEIVED:**TOWN COUNCIL:**

In relation to the first Town Council point, the buildings that were subject to the Building of Character designation are no longer present on the site. HER DM2 is no longer relevant. The other points are considered within the report's conclusions.

OTHER INTERESTED PARTIES:

The majority of the objections are considered in the reports conclusions. In respect of point (12), the site is not allocated as a location for a new nightclub, it is unclear whether demand exists for a new nightclub given the existing one on the Pier diagonally opposite and a new nightclub could result in harmful disturbance to existing & new residential properties.

CONSULTATIONS

Conservation Officer
 Engineering Services Manager
 Engineers (Drainage)
 Economic Regeneration
 Highways England
 WSCC Strategic Planning
 Environment Agency
 Natural England
 Surface Water Drainage Team
 Environmental Health
 Parks and Landscapes
 Planning and Housing Strategy
 Sussex Police-Community Safety
 NHS Coastal West Sussex CCG
 WSCC Strategic Planning
 Engineers (Coastal Protection)
 Environment Agency
 Strategic Projects
 WSCC Strategic Planning
 Southern Water Planning

CONSULTATION RESPONSES RECEIVED:

ENVIRONMENT AGENCY - No objection subject to the mitigation measures in the Flood Risk Assessment (FRA) being secured by condition.

HIGHWAYS ENGLAND - No objection.

NATURAL ENGLAND - No objection subject to a contribution to the Pagham Harbour Special Protection

Area mitigation scheme.

NHS - No objection subject to a contribution of £30,680 secured by a legal agreement for the infrastructure needs of extending Grove House Surgery in Bognor Regis. This is required to sustain sufficient and safe services in the area and is considered to meet the CIL tests (regulation 122 of the Community Infrastructure Levy Regulations 2010).

SUSSEX POLICE - No objection. Set out a list of required security measures as detailed in their response on the Councils website dated 05/11/19.

WSCC INFRASTRUCTURE - No objection subject to a legal agreement to secure the following:

- Primary Education: £28,958 towards additional facilities at Edward Bryant Primary School;
- Secondary Education: £51,244 towards Phase 1 of the new secondary school in Arun;
- 6th Form Education: £7,301 towards additional equipment at Felpham Community College Sixth Form;
- Libraries: £9,872 towards a project to enhance library space with improved digital access at Bognor Regis Library;
- Fire & Rescue: £890 to be spent on 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; and
- An unspecified number of new fire hydrants.

WSCC HIGHWAYS - Following submission of a Road Safety Audit (RSA) and an updated Transport Statement, advise no objection subject to conditions. The latter highlights that the Norfolk Street vehicle access will be for commercial staff only (no residential parking) and that there will only be retail uses at ground floor. Comment that:

- The TRICs assessment estimates that an increase in 39 trips in the AM and 26 in the PM peak hours could occur (proposed compared with previous site uses) and this is considered a worse case scenario such that there is no capacity issue;
- The RSA raised one problem in relation to the northern end of the development access where a risk of side swipe collisions was identified. The auditor recommends that boundary treatment is less than 1.05m to allow exiting drivers unobscured visibility (over bonnets of cars parked to north);
- Swept path tracking plans show that the car parking spaces and loading bays will be a workable arrangement with manoeuvring to and from the one-way Norfolk Street;
- Deliveries can access and egress the loading bay areas as shown; and
- Refuse collection is anticipated to be as per the existing arrangements for neighbouring properties.

WSCC DRAINAGE - No objection. State that based on modelled data the site is at low risk from surface water flooding but high risk from groundwater flooding. Have no records of historic surface water flooding.

ADC CONSERVATION OFFICER - Comments on the revised proposals that the proposal can be described as causing 'less than substantial harm' in accordance with paragraph 195 of the NPPF (2019) therefore it is for the planning authority to determine whether this harm is outweighed by the public benefits that the development may achieve. Comments as follows:

- The site is located in a sensitive area with a Conservation Area and a Grade II Listed Pier where development proposals need to be carefully considered;
- It is considered that the elevations of the amended building have been improved so that there is more of a mixture of both traditional and contemporary elements, which is better reflective of the square;
- However, it is not clear why the site has been divided up in to two blocks of development and such a

proposal removes the continuous line of development along the side of the square, which is a notable feature;

- Further, the proposed buildings are still of a scale and massing which is considered to be out of character with the surrounding buildings/area;
- The buildings appear to be approximately 50% higher than neighbouring buildings on both sides;
- This is a significant issue when viewed in the context of Waterloo Square and causes harm;
- There is also an unsatisfactory relationship between the (northern) building and the neighbouring Waterloo Court which remains;
- Elevations 4 and 6 are predominantly blank facades and creates an almost blind corridor through the site which will be visible from at least Waterloo Square and is out of character;
- Therefore, it is not clear how the proposal fully sensitively integrates with the scale, proportion and use of some of its materials with those buildings in the local area.

ADC DRAINAGE ENGINEERS - No objection. Request an informative to state that no surface water is to be discharged to the foul drainage system. Comment that:

- There is a negligible change in impermeable area but Southern Water should be consulted as the site will drain to the public surface water drain; and
- Betterment should be achieved such as green roofs or rainwater harvesting.

ADC ENVIRONMENTAL HEALTH - No objection. Their response of 07/05/20 requests a number of conditions and informatives.

ADC HOUSES IN MULTIPLE OCCUPATION OFFICER - No objection. Advise a number of points in their response dated 11/05/20 as regards fire safety, internal room sizes, ventilation and safety of balconies which will be relevant for when a license is applied for.

ADC STRATEGIC PROJECTS (LEISURE) - No objection subject to a legal agreement to secure the following:

- £13,970 towards the community sports hub to be provided at West of Bersted;
- £4,400 towards the community sports hub to be provided at West of Bersted; and
- £14,924 towards wet side shower provision at a new leisure centre for the district.

ADC PARKS & LANDSCAPE - Consider that there would be significant effect (potentially improving) on the street scene from the design of these proposals and that the potential impact of the proposals would blend into the surrounding environment without the need for onsite green infrastructure. No objection subject to a legal agreement to secure infrastructure improvements.

ADC BUILDING CONTROL - Having been asked to comment regarding fire safety, stated that an alternative escape from flats is advisable but that Building Regulations allows for a single escape route where certain provisions are introduced into the design of the building such as internal arrangement/layout, smoke venting by windows/smoke shafts, non-combustible staircases and staircases to be in a protected shaft separate from other purpose groups.

ADC HOUSING STRATEGY & ENABLING MANAGER - Object. State that in order to support the application, the applicant is required to provide 10 dwellings for affordable housing, plus a payment of £40,000 in lieu of the additional half a dwelling.

COUNCILS INDEPENDENT DESIGN ADVISER - Comments set out in full on the Councils website but in summary:

- The revised scheme is an improvement as the accommodation is more spacious, elevations are more articulate, there is more permeable ground floor area, the height is reduced and the building now better relates to neighbouring buildings & surrounding built form/character;
- There remain design concerns with the blank elevations overlooking the walkthrough with a lack of passive surveillance), fire safety relying on a single escape, the relationship to Waterloo Court (the existing pitched roof and proposed wall).
- Given that this is a prominent site in a sensitive & strategic location, the main consideration remains the integration with the wider conservation area and the impact on surrounding heritage assets.
- The proposed scale and massing is still considered to be excessive (50% higher than neighbouring buildings on both sides with five floors against three at Waterloo Square & six against four on the Esplanade;
- The principal concern is not the horizontal massing (the original buildings provided a continuous frontage and sense of enclosure around the square) but vertically. Specifically, the extent of variation between proposed & existing eaves and ridge/roof lines; and
- The site represents a unique opportunity to repair the urban fabric and enhance the conservation area and heritage assets and it would be very interesting to see the impact of a scheme that sensitively integrates with the scale and proportion of neighbouring buildings as the basis for achieving this.

CONSERVATION AREA ADVISORY COMMITTEE - Objection. The building is too large/too high, it bears no resemblance to scale of previous site buildings, will have an overbearing impact on adjacent buildings/streets, the elevation treatment is not to standard - bland/monolithic, that a modern building here should be innovative, imaginative and acknowledge the character of the seafront & surroundings. Argue that the proposal conflicts with the NPPF and policies of the Arun Local Plan.

COMMENTS ON CONSULTATION RESPONSES:

All comments noted except where discussed below.

WSCC HIGHWAYS - The request for the designers response to be issued in a particular format is noted but this is not considered to be worthy of inclusion as an additional refusal reason.

ADC CONSERVATION OFFICER - The issue with the building materials could be resolved by a suitably worded planning condition.

POLICY CONTEXT

Designations applicable to site:

Within the Built Up Area Boundary;
CIL Zone 4;
Within 5km of Pagham Harbour SPA;
Within 2km of Bognor Reef SSSI & Felpham SSSI;
The Steyne, Bognor Regis Conservation Area;
Part Flood Zones 2 & 3; and
Part Future Flood Zone 3a.

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
ECCSP1	ECC SP1 Adapting to Climate Change
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVDM1	ENV DM1 Designated Sites of Biodiversity or geographical imp
ENVDM2	ENV DM2 Pagham Harbour
ENVDM5	ENV DM5 Development and biodiversity
HDM1	H DM1 Housing mix
HERSP1	HER SP1 The Historic Environment
HERDM1	HER DM1 Listed Buildings
HERDM3	HER DM3 Conservation Areas
INFSP1	INF SP1 Infrastructure provision and implementation
HWBSP1	HWB SP1 Health and Wellbeing
QESP1	QE SP1 Quality of the Environment
QEDM4	QE DM4 Contaminated Land
RETDM1	RET DM1 Retail development
SDSP1	SD SP1 Sustainable Development
SDSP2	SD SP2 Built-up Area Boundary
OSRDM1	Protection of open space,outdoor sport,comm& rec facilities
TDM1	T DM1 Sustainable Travel and Public Rights of Way
TSP1	T SP1 Transport and Development
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
Bognor Regis Neighbourhood Plan 2015 Policy 3	Old Town Restaurant and Cultural Quarter
Bognor Regis Neighbourhood Plan 2015 Policy 6	Key gateways and promotion of sustainable travel
Bognor Regis Neighbourhood Plan 2015 Policy 8	Pre-Application Consultation
Bognor Regis Neighbourhood Plan 2015 Policy 8A	Design Excellence
Bognor Regis Neighbourhood Plan 2015 Policy 8B	Car Parking

PLANNING POLICY GUIDANCE:

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

SUPPLEMENTARY POLICY GUIDANCE:

SPD2	Conservation Areas
SPD3	Parking Standards
SPD9	Buildings or Structures of Character

POLICY COMMENTARY

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

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

Bognor Regis Neighbourhood Development Plan (BRNDP) policies 1, 2, 3, 6, 8, 8A & 8B are all considered to be relevant.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

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

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

The proposal is considered to conflict with relevant Development Plan policies in that the proposed development by virtue of its height & design will result in significant adverse harm to the character/appearance of the locality and will create harmful overlooking and overshadowing impacts to the existing windows of nearby residential properties. Furthermore, the proposal makes insufficient provision for residential parking and also in the absence of a signed S.106 legal agreement, fails to make provision for the affordable housing and infrastructure requirements of the development.

The building is located in a Conservation Area and section 71(1) of the Act states:

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

The proposal is considered to conflict with these criteria in that it is considered to materially affect the the setting of the Grade II Listed Pier and the character of the Conservation Area.

OTHER MATERIAL CONSIDERATIONS

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

CONCLUSIONS**PROPOSAL & PRINCIPLE:**

Residential Development

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, flooding, highway safety/parking, heritage, residential amenity, space standards, noise pollution, affordable housing, infrastructure, children's play/public open space and the natural environment.

Policy SD SP1 of the ALP 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)."

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, para 123 states 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. Higher densities will be encouraged for city/town centres and other locations that are well served by public transport.

The site is located within the built-up area and in a highly sustainable location with potential for trips to be made on foot, by cycle or by bus. There is also a railway station nearby. The new homes would also result in moderate benefits to the local community & economy by providing new residential accommodation to help meet future needs, create new places of employment jobs, create/maintain construction jobs, create economic activity at the new commercial units and also result in additional spending in the local area by future residents.

According to the most recent Authority Monitoring Report (December 2019), the Council can currently only demonstrate a 3.7 year housing land supply and in addition, an Inspector concluded on a recent appeal decision (ref APP/C3810/W/19/3236911 dated 13/02/20) that the Council's stated housing land supply position is currently only approximately 2.9 years. This proposal provides 35 new residential dwellings in a sustainable location in the built-up area boundary and will make a moderate contribution to the current housing land supply shortfall.

The proposal is judged to be in accordance with ALP policies SD SP1 and SD SP2 and with the guidance in the NPPF on the efficient use of land.

Retail Development

The site is shown within the Arun Local Plan as being within the defined Bognor Regis Town Centre Area and also within an economic growth area. New retail development on the site would be subject to ALP policy RET DM1. Applications for A3 Uses will need to be accompanied by details of the provisions for the extraction of fumes and cooking odours and the provision of areas for the collection of waste."

The application provides no details of the extraction of fumes and odours as it is not yet certain whether any of the commercial units will be cafe/restaurant or retail. It is noted the Transport Assessment suggests 100% retail but this is at odds with the application description. In any case, the need for extraction systems could be subject to a planning condition as was the case for a nearby application at 6-8 Waterloo Square (ref BR/143/18/PL). The a-d criteria in the above policy will be considered elsewhere in this report. In respect of criteria e, it is noted that Sussex Police do not raise any objections.

The Bognor Regis Neighbourhood Development Plan (BRNDP) designates the site as being part of the "Old Town Restaurant & Cultural Quarter". Policy 3 is relevant and supports the development of new restaurant & leisure type uses in this location. It does not indicate any agreement to new A1 retail uses but equally it does not say that these are not allowed. The proposed drawings shown some overspill external seating onto the new pedestrian walkthrough and thus gains further support from criteria (a) & (c).

On the basis of reasons of design, layout & character (that will be discussed elsewhere in this report), the proposal would not be considered to be in accordance with policy RET DM1. However, whilst the new A1 retail uses are not in the spirit of BRNDP policy 3, it is not considered that there is any conflict with the wording of this policy.

FLOOD RISK:

The site falls predominantly within Flood Zone (FZ) 1 but also with parts of the site within FZ2 and 3 (at the boundaries with the Esplanade, Waterloo Square & Norfolk Street). The site is also shown in the Councils Strategic Flood Risk Assessment (SFRA) as being at risk of flooding in the future. This suggests that the rear of the application site may become part of FZ3a by the year 2061 and that a greater area will be FZ3a by 2111. These maps show what would happen if there were no defences from the sea and it is clear that there are existing sea defences along the seafront here. In any case, in all scenarios, the central part of the site stays within FZ1.

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.

(a) A sequential assessment is required where a site is at high risk of current or future flooding. Para 158 of the NPPF states that the sequential approach should be used in areas known to be at risk now or in future from any form of flooding. Para 155 NPPF also states that the development "should be made safe for its lifetime without increasing flood risk elsewhere." Furthermore, para 33 (Reference ID: 7-033-20140306) of the associated Planning Practice Guidance states that it should not normally be necessary to apply the sequential test to development in proposals in flood zone 1 (and with a low probability of flooding from rivers or the sea) unless the flood risk assessment indicates there may be flooding issues now or in the future (for example by climate change).

The Flood Risk Assessment (FRA) states that the site lies within defended FZ3, is a highly sustainable location for new residential & commercial development, is a previously developed site and proposes that residential buildings ("more vulnerable" use) are located above the ground floor so above the existing & future flood levels in order to minimise the risk of potential flooding.

(b) The application is accompanied by a FRA which the Environment Agency have considered. They raise no objections provided that the mitigation measures identified in the FRA are implemented. These consist of all residential units at first floor and above, ground floor level mitigation, a flood procedure plan, and registration with the Environment Agency's flood warning service. The Environment Agency state that this will ensure that the site and its occupants are afforded suitable protection from flooding throughout its lifetime.

(c) The proposal will result in the following sustainability benefits:

- Location of new residential accommodation within a highly sustainable location such that new residents do not need to own a vehicle to access shops & services;
- New accommodation to help meet future needs including affordable homes;
- Increased Council Tax receipts;
- New Homes Bonus payments from the Government;
- Creation/maintenance of construction jobs;
- New sources of employment (the three commercial uses);
- New economic activity at the site; and
- Additional spending by new residents on local goods & services.

This will not include affordable homes as the applicant will not agree to the Council's requirements. In addition, with no signed legal agreement in place, it is not possible to refer to the benefits of other new infrastructure in the surrounding area.

(d) & (e) See response to (b) above.

(f) The Council's drainage engineers do not raise any objections to the principle of the proposal.

Therefore, the proposal is considered to comply with ALP policies ECC SP1 and W DM2.

HIGHWAY SAFETY & PARKING:

ALP policy T SP1 seeks to ensure development: provides safe access on to the highway network; contributes to highway improvements & promotes sustainable transport. In respect of highway safety, it states: "The Council will support transport and development which: explains how the development has been designed to: (i) accommodate the efficient delivery of goods and supplies; (ii) give priority to pedestrian and cycle movements and have access to high quality public transport facilities; (iii) create safe and secure layouts for traffic, cyclists and pedestrians whilst avoiding street clutter."

The Council has also adopted a Parking Standards Supplementary Planning Document (SPD).

In addition, policy T DM1 requires that new development be located within easy access of established non-car transport modes/routes, contribute to the improvement of such routes & facilities and contribute towards the provision of a joined-up cycle network and Public Rights of Way network.

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."

The advice of WSCC Highways is summarised above and they consider that there are no concerns with the proposal from a highway safety or capacity perspective. WSCC state that the proposal would not 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 109), and that there are no transport grounds to resist the proposal.

According to the Arun Parking SPD, the proposal generates a residential need for 35 resident spaces and 7 visitor spaces (42 total spaces). 5 spaces are shown on the ground floor plan however the Transport Assessment indicates that these are for commercial staff only meaning that zero spaces are provided for the 35 flats. The Transport Assessment suggests that residential parking would be accommodated on the local road network as was the case for the previous site uses.

In respect of non-residential uses, the SPD states that these should be based on a site specific assessment based on the use, the trip rate associated with the development (including base and forecast mode share) and the user group of staff/visitors of the site (including shift patterns). The proposal includes 5 spaces for commercial staff.

In respect of parking, WSCC Highways advise that this is a highly accessible location such that reliance on the private car would not wholly be necessary for all residents. Furthermore, that a Controlled Parking Zone (CPZ) operates in the surrounding area so overspill parking nearby on-street will not take

place in locations detrimental to highway safety. However, WSCC advise that the Local Planning Authority may wish to assess the amount of parking proposed from an amenity aspect as there is no guarantee that new residents would be able to gain a permit.

It is considered that new residents may try to park where there are no restrictions thus potentially creating conflict with existing residential occupiers in the surrounding urban area. It is acknowledged that new residents of the flats will be aware that there are no parking facilities at the site before they choose to buy/rent and that the SPD states that a more flexible approach will be taken with schemes that incorporate flats and on sites close to urban centres.

However, the shortfall versus the standards is simply too great and it is the Council's view that this under provision will result in an increase in pressure for on-street parking spaces which will be harmful to the amenity of existing local residents in the town centre area. It is also noted that the applicant has not provided any evidence (in the form of a parking capacity survey) to demonstrate that there is existing spare parking capacity on surrounding roads.

Regarding commercial parking, WSCC state that it is not possible to predict anticipated parking demand as there is no certainty as to which uses will be retail or cafe. However, WSCC consider that it is not uncommon for seafront commercial uses to not have parking facilities and that visitors can park on-street or at nearby public car parks within walking distance of the site.

The SPD also sets out standards for residential and commercial cycle parking. WSCC advise that the proposals provides enough cycle parking spaces to meet the SPD. It is not clear whether the proposed staff and customer cycle provision is appropriate due to the uncertainty as to which uses will be retail or cafe but that this can be agreed through a condition.

BRNDP policies 6 and 8b state that major developments should demonstrate through a Transport Assessment and Travel Plan that they do not impact on the existing capacity of public highways to accommodate parking, do not result in a severe cumulative transport impact, improve pedestrian & cycle movement and invest in street improvements. This application is accompanied by a Travel Plan and its implementation would be subject to a planning condition. The proposal also improves pedestrian movements with the new walkthrough between Waterloo Square & Norfolk Street and will add new external seating areas to further improve the public realm.

The proposal is acceptable in respect of policies relating to highway safety but at the same time unacceptable due to the lack of residential parking. Therefore, the proposal is in conflict with Arun Local Plan policy T SP1 and the Councils Parking Standards supplementary planning document (January 2020).

HERITAGE ASSETS:

The site lies in the "Bognor Regis The Steyne" Conservation Area and is also in the setting of the Grade II Listed Bognor Regis Pier. The relevant Local Plan policies are HER DM1 (Listed Buildings) and HER DM3 (Conservation Areas). The site was also previously home to three Buildings of Character but as these are no longer present, it is not appropriate to consider policy HER DM2.

Policy HER DM1 requires that proposals protect and, where possible, enhance the setting of Listed Buildings. Policy HER DM3 lists criteria for proposals affecting the setting of a Conservation Area. BRNDP policy 1 states that proposals must identify the significance of any affected heritage asset and assess any harm and benefit. The proposal does this as is discussed below.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that:

"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

Furthermore, section 72 states: "In the exercise, with respect to any buildings or other land in a conservation area, 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."

It is necessary to consider policy guidance in the National Planning Policy Framework (NPPF) which sets out several steps when considering impact on heritage assets. Para 189 requires applicants to describe the significance of heritage assets affected, including any contribution made by their setting. Para 190 requires Local Planning Authorities to identify and assess the particular significance of the heritage asset that may be affected by a proposal. The Local Planning Authority must then consider the level of harm associated with the proposal and decide whether there is any harm and if so, whether this is 'less than substantial harm' or 'substantial harm'. It is then necessary to counterbalance harm with the level of public benefits associated with the proposal (as set out in paras 193-196).

The applicants have provided a Heritage Statement which does provide information in accordance with the relevant paragraphs of the NPPF 2019 as described above. The Statement concludes that the proposal would enhance the character & appearance of the Conservation Area and would protect the setting of the Grade II listed Pier.

The Conservation Officer has assessed the proposal and the comments are set out in full on the Council's website and summarised above. In short, the Conservation Officer considers that the proposal will result in specific harm to the Conservation Area and nearby Listed Pier but that this harm is such that it be classed as "less than substantial harm" in accordance with paragraph 195 of the NPPF (2019). It is therefore for the planning authority to determine whether this harm may be outweighed by the public benefits that the development may achieve. In this case the proposal will:

- Create new accommodation to help meet future needs;
- Result in an increase in Council Tax receipts;
- Result in New Homes Bonus payments from the Government;
- Create/maintain construction jobs;
- Create new sources of employment (the three commercial uses);
- Result in new economic activity at the site; and
- Result in additional spending by new residents on local goods & services.

This will not include affordable homes as the applicant will not agree to the Council's requirements. In addition, with no signed legal agreement in place, it is not possible to refer to the benefits of other new infrastructure in the surrounding area. However, even without the consideration of these additional benefits, it is considered that the benefits are of a level that the less than substantial harm can be overcome and that therefore, the proposal can be considered in accordance with the NPPF guidance.

There remains conflict with the policies of the Local Plan as the proposal clearly results in harm to the heritage assets, particularly the Conservation Area. Furthermore, the proposal does not preserve or enhance the character/appearance of the Conservation Area (as per section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. However, as the Council cannot demonstrate a 5-year housing land supply, the policies in the development plan most relevant to this determination have reduced weight and it is considered that greater weight should be attributed to the NPPF tests.

CHARACTER & DESIGN:

ALP policy D DM1 requires that the Council seek to make the best possible use of land by reflecting or improving upon the character of the site and the surrounding area. It requires the Council to consider scale, massing, aspect, siting, layout, density, building materials, landscaping, and design features. It is 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 housing make efficient use of land while providing a mix of dwelling types and maintaining character and local distinctiveness. Higher densities will be more appropriate in the most accessible locations. The policy also requires 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.

Policy 2 of the Bognor Regis Neighbourhood Development Plan (BRNDP) states: "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." In addition policy 8A requires that new major development demonstrate 'design excellence' and help to establish a strong sense of place and create attractive and comfortable places to live, work and visit.

Paragraph 127 of the NPPF states that "Planning policies and decisions should ensure that developments: (c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities)." Para. 122 states that planning decisions should support development that makes efficient use of land but the desirability of maintaining an area's prevailing character and setting should be considered. Para. 130 states that planning permission should be refused for development that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

The National Design Guide (September 2019) forms part of the Government's collection of planning practice guidance. Paragraphs 20-21 of the Design Guide explain how good design should pay regard to place and context and that 'a well-designed place is unlikely to be achieved by focusing only on the appearance, materials and detailing of buildings. Part 2 of the Guide sets out ten characteristics for good design, namely Context, Identity, Built form, Movement, Nature, Public spaces, Uses, Homes and buildings, Resources and Lifespan. In addition, the Council has an emerging Design Guide which, following statutory consultation, will be considered at the Planning Policy Sub Committee on 30/06/20.

The applicant has provided a Design & Access Statement and also a commentary in response to the comments of the Councils Design Adviser. However, neither document references either the National or emerging Arun Design Guides. Therefore, it is unclear as to how the proposal meets the criteria in these two documents.

The Council has obtained Design Advice on this proposal from an independent Design Adviser and this is summarised elsewhere in this report. The Design Adviser whilst recognising that the proposal is an improvement on previous schemes, continues to have concerns with how the development will integrate with the existing character & built form of the area particularly in terms of scale and design.

In particular, there is concern with the blank elevations overlooking the walkthrough (with no passive surveillance of this area), the relationship of the new proposed vertical wall of the smaller building with the existing pitched roof on Waterloo Court and the height of the buildings. In respect of the latter, it is acknowledged that previous Design advice stated that a 5 or 6 storey building could be accommodated

on the site and there would be no need to step up from adjacent buildings. The applicants have stated that they prepared this submission on the basis of that advice.

This being the case, it is considered that a case can be made for the height of the larger frontage building as this is not particularly excessive in height when viewed against the adjacent Cavendish House and would occupy a key corner plot for which a sense of prominence would be acceptable. However, the smaller building whilst lower than the larger one is considered to be at least one storey too high and this results in a harmful juxtaposition between the existing built form of Waterloo Court and the proposal. This would be clearly visible in the Waterloo Square streetscene and in wider views from the west and southwest.

Also harmful are the blank elevations of the southern elevation of the smaller building and the northern elevation of the larger. Although it is recognised that this has been done to prevent overlooking between new windows, it is considered that windows could still be provided or otherwise detailing added to these elevations. These elevations will also be clearly visible in the Waterloo Square streetscene and wider views of the site and are uncharacteristic of the area. In addition, the elevation of the smaller building would also be harmful to views of the site from the north (such as from the junction of Norfolk Street & High Street) with blank elevations seen in comparison to the predominantly two storey pitched built form of existing buildings.

Whilst it is considered that there is a case for the height of the larger building, it is considered that there is insufficient justification for the impact of the smaller building on the character of the area and that a building of at least one storey less and with greater detailing to all elevations would help to overcome these concerns.

It is noted that some of the objectors have concerns with the lift overrun on top of the building and consider it to be out of character. It is noted that the adjacent Cavendish House also has a lift between floors which culminates in an overrun but that this is relatively hidden in the centre of the building behind pitched roofs. Nevertheless, the instance of this on an adjacent building does mean that the proposed feature on the new building cannot be considered to be alien. In any case, the proposed overrun would be around 19.8m above ground level and would not be visible at street level other than from longer distance views of the site. It would not be a particularly noticeable feature and is not considered to be harmful.

The proposal conflicts with ALP policies D DM1 & D SP1, policies 2 & 8A of the BRNDP, the guidance on design in the NPPF and the National and emerging Arun Design Guides.

RESIDENTIAL AMENITY:

ALP 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. 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. ALP 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". In addition, the emerging Arun Design Guide sets out guidance on interface distances between dwellings and these are: 21m for back to back, 16m for front to side and 14m for back/front to side.

The applicant has not supplied any assessments of the impact of the proposals on existing residential properties such as by overlooking or loss of light. Nevertheless, the Council has thoroughly assessed the impact of the proposals on existing residential properties including with reference to the impact of the previous buildings on the site and the impact of new built form approved by the expired BR/239/11/

permission. It is considered that the proposal has the potential to impact on the following existing residential properties:

- Flats in the rear of 24 Lennox Street (first floor) which have windows facing onto Norfolk Street;
- Flats in the first, second & third floors of Cavendish House which have windows looking onto Norfolk Street;

It is also noted that:

- The buildings at the rear of 2-4 Waterloo Square which were demolished as a result of BR/191/18/PL were also two storeys onto Norfolk Street and had flatted windows at first floor such that there was only 6.1-6.5m between these windows and those opposite;
- The buildings on the site that were destroyed by fire were built right up to the back of pavement on Norfolk Street, were two storeys high with a nightclub at first floor level. There were some first floor windows associated with the nightclub and the building was only 5-5.6m from the windows opposite;
- The changes approved by BR/239/11/ maintained the two storey built form on Norfolk Street and introduced flats at first floor level in place of the nightclub. This would have therefore resulted in windows of residential flats facing those on the building opposite;

On the basis of the previous situation/planning history, it is considered that a case can be made for overlooking at first floor level.

In terms of the current proposal:

- The larger building is in part right onto Norfolk Street and in part (the rear part) set back resulting in a minimum of 9.2m to the existing flats (Caendish House) opposite;
- The smaller building is entirely set back from Norfolk Street resulting in a minimum of 9.7m to the existing flats (rear of 24 Lennox Street) opposite.

It is therefore considered that:

Flats in the rear of 24 Lennox Street - overlooking at first floor level is better than it would have been before the previous building was demolished but regard must be had to the impact of three further floors above on light reaching these existing windows (bearing in mind the proposed building is west of the existing windows) and also greater overlooking from new residents on the floors above looking down.

Flats in Cavendish House - overlooking at first floor level is now better than it would have been before the previous building was demolished by fire/better than what it could have been had BR/239/11/ been implemented. However, there will be new overlooking at second floor and then from new residents on the floors above looking down. Overshadowing may also be an issue due to the increase in height particularly on the front section of the larger building which is built right up to the edge of Norfolk Street.

It is acknowledged that development of this key corner plot with a large building will undoubtedly have some impacts of the residents of existing nearby residential properties and it is also noted that parts of the new building have been set back from Norfolk Street to improve this situation. However, the applicant has not provided any assessments to justify the potential impacts and it is not considered that the mitigation measures go far enough. It is therefore considered that the upper floors of the buildings should be stepped back and windows to these elevations either minimised or restricted to non principal windows that can be obscure glazed (so bathrooms, communal areas, secondary living area windows).

There are no concerns with the inter-relationship of new flats in the two buildings. Internal & external space standards are considered in the following part of this report.

It is therefore considered that the increase in the height of built form on this site will create harmful overlooking and overshadowing impacts to the existing windows of residential properties on Norfolk Street and that this therefore results in conflict with policies D DM1 & QE SP1 of the Arun Local Plan, paragraph 127 (f) of the National Planning Policy Framework (2019) and the emerging Arun Design Guide.

SPACE STANDARDS:

ALP 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 (NDSS) will provide guidance". It is therefore necessary to assess the proposal against the internal space standards set out in the Governments Technical Housing Standards (Nationally Described Space Standard) to determine if the buildings will be suitable for residential use.

The applicant states that all 35 residential units have been designed in accordance with the NDSS requirements. The submitted schedule shows that the units range in size from studio units @40m² to larger 2 bed, 4 person units @83m² which are all well above the NDSS. All of the proposed flats therefore comply with this guidance. There are no policies in the ALP relating to garden sizes but the emerging Arun Design Guide sets out standards for garden sizes for flats as follows:

- Balconies: max. 2m beyond the building frontage, subject to minimum balcony to balcony distances of 17m. 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.

There is no space within the site to provide communal amenity space and instead this will be provided by the close proximity of the site to the seafront and nearby parks. 18 of the flats will have access to balconies of varying sizes (the smallest being 1.8m² but most more than 3m²) and a further three flats (on the top floor) will have access to a larger roof terrace.

Although not all of the flats benefit from external space and that not all balconies are at least 3m² in size, this is acceptable as it is not appropriate to have balconies on all elevations due to the need to protect residential amenity and on the grounds that the Design Guide is guidance not policy.

It is therefore considered that the scheme provides a decent standard of amenity for future occupiers and there is no conflict with any adopted development plan policy.

AIR POLLUTION:

ALP Policy QE DM3 requires that major developments are within 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.

As stated elsewhere, ALP policy RET DM1 requires that applications for new A3 Uses be accompanied by details of the provisions for the extraction of fumes and cooking odours and the provision of areas for the collection of waste. Furthermore, policy WM DM1 requires the provision of waste storage provision.

ADC Environmental Health have made no specific comment on air pollution but do request conditions covering electric vehicle charging and the extraction of kitchen odours. It is acceptable to leave the details of kitchen extraction to condition as the final operators of the commercial premises are not known. The proposal has very few car parking spaces therefore encourages new residents to walk or cycle

particularly given the highly sustainable town centre location. WSCC Highways have not requested any highway improvements. The proposal also includes waste provision and the site can be serviced from the public highway.

The proposal therefore complies with ALP policies RET DM1, QE DM3 and WM DM1.

NOISE POLLUTION:

ALP 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: (a) high levels of noise will continue throughout the night, especially during the hours when people are normally sleeping; (b) there is a likelihood of complaints about noise from industrial development."

ADC Environmental Health have made no specific comment on noise pollution but do request conditions covering the permitted hours of deliveries to the site, the permitted hours that kitchen extraction systems can be used and noise insulation between floors. Notwithstanding the comments by some residents, there is no concern arising from noise from persons departing the nightclub on the Pier diagonally opposite. In respect of the policy, although there may be some noise from the nightclub or from the road along the seafront, this will not continue all night and therefore, there is no conflict with ALP policy QE DM1.

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. It states that for major developments, 10% of the total predicted energy requirements should be produced from renewable/low carbon energy generation on site, unless it is demonstrated this is unviable. In addition, ECC SP1 requires that new development be designed to adapt to impacts arising from climate change.

The application states that the building approach involves energy demand minimisation through effective building form and orientation to promote high levels of daylight, good envelope design and proficient use of building services such that the building itself is being used as the primary environmental modifier. To further reduce the environmental impact of the design, it is proposed to incorporate water conservation measures to limit water use to 110 litres per person per day through careful selection of fittings and to install solar panels on the building. The application states that the combination of the energy efficiency measures and new technologies will result in a combined minimum 19% reduction in CO2 emissions compared to Part L of the 2013 Building Regulations

A planning condition could be imposed to secure these details and on this basis, it is considered that the proposal complies with policies ECC SP1 and ECC SP2. It should also be noted that future flood risk has been considered elsewhere in this report.

AFFORDABLE HOUSING:

Developments over 11 residential units require a minimum provision of 30% affordable housing on site as per ALP policy AH SP2. The Councils Housing Strategy and Enabling Officer states that this proposal should provide 10.5 affordable dwellings with the extra half being covered by an additional £40,000 financial contribution (where £80,000 is the equivalent contribution per dwelling).

The application states that whilst normally 30% of the units would be affordable, this development replaces the former derelict and vacant buildings, destroyed by fire/demolished and therefore qualifies for the government's vacant building credit. On this basis, the applicant is willing to agree to a contribution

of £300,000 (3.75 x £80,000).

The provision of affordable housing on a site at less than 30%, or on an alternative site or by way of a commuted sum will only normally be allowed in very exceptional circumstances if supported by robust evidence including, where appropriate, viability evidence. The applicant has not sought to justify the proposed lower contribution on viability grounds.

Paragraphs 026-029 of the National Planning Practice Guidance (NPPG) set out the application of vacant building credit (VBC). However, it is clear from this that the VBC would not apply as the buildings on the site have long since been removed and were not removed to make way for new development.

Part of the building was destroyed by fire in 2016 (and demolition/clearance was urgently necessary in the interests of safety and health and as such, was permitted development). The application for demolition of the remaining parts (BR/191/18/PL) was submitted by the applicant on the basis that the structure was unsafe. There is significant evidence on the planning file of this fact and of the applicant's insistence that the Council allow the demolition to protect lives.

It is also material that the applicant stated at this time that "the building was in a dangerous state and cannot be occupied or used" (28/08/18) and that "the building has no alternative use and should not be used or occupied at all" (24/08/18) - noting that these are similar statements. Furthermore, on 09/11/18, the applicant stated that "The application is to drop the building and not to rebuild at this stage. A fresh design is currently being formulated and a fresh pre-enquiry for the redevelopment will be issued shortly."

The Council had proposed to refuse the demolition application as it did not comply with relevant policy for demolition in a Conservation Area (partly because there was no approved redevelopment scheme) but then a Demolition Order was served under the Housing Act 1985 due to category 1 & 2 hazards being present and noting that the building was being illegally occupied. It was on the basis of the latter that the application was approved however it is clear that the application was submitted by the applicant on the basis of structural issues and that the applicant was pushing for a positive decision so there can be no claim that it was only demolished because the Council requested this.

The Council's position on the application of the VBC is that it does not apply. The applicant has been advised of this and was advised that if they disagree they should obtain a legal opinion for the Council to consider. No such opinion has been provided and the applicant instead requests that the Council make a moral decision and agree to the reduced provision. It is not considered that the NPPG's guidance on the application of VBC allows for a moral decision to be made.

The proposal is therefore clearly in conflict with policy AH SP2 and the advice in the NPPG (that VBC does not apply in this case).

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 located in a sustainable urban location and will therefore promote walking and cycling with access to public parks, the seafront and cycle lanes. There are art, leisure and cultural buildings nearby or within easy reach from the nearby railway station.

The Council's supplementary planning document (SPD) "Open Space, Playing Pitches, Indoor and Built Sports Facilities" (January 2020) sets out a requirement for on-site public open space (POS) of 2,464m² and an on-site equipped play facility of 424m². In addition, the following off-site financial contributions are required: £4,400 (Health & Fitness), £13,970 (Sports Halls), £14,924 (Swimming Pools) and £18,532 (Playing Pitches).

There is no space on the site to provide open space, play or other sports facilities. However, as this site is zero rated for CIL it is still possible to secure off-site financial contributions through a S.106 Legal Agreement. The Council's Leisure and Landscape officers have assessed the likely impacts of the proposal and consider that it should make contributions to specific projects for existing public open space, play and indoor/outdoor leisure facilities within the area.

If these contributions were to be secured through an appropriate S.106 Legal Agreement then the proposal would be considered to comply with ALP policies OSR DM1 and HWB SP1. However, as no legal agreement is in place, there is conflict with these policies.

SUPPORTING INFRASTRUCTURE:

ALP policy INF SP1 states: "The Local Planning Authority will support development proposals which provide or contribute towards the infrastructure and services needed to support development to meet the needs of occupiers and users of the development and the existing community." and "Any on-site provision or financial contribution required to address unacceptable impacts must meet the statutory tests for planning obligations required by Regulation 122 of the Community Infrastructure Regulations 2010."

As this site is zero rated for CIL it is possible to secure off-site financial contributions through a S.106 Legal Agreement. The Council has received requests from both WSCC and the NHS for contributions towards specific projects at sites in the area. The requirements are considered to meet the CIL tests (Regulation 122 of the Community Infrastructure Levy Regulations 2010).

If these contributions were to be secured through an appropriate S.106 Legal Agreement then the proposal would be considered to comply with ALP policy INF SP1. However, as no legal agreement is in place, there is conflict with this policy.

PAGHAM HARBOUR:

ALP 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 £871 per new residential unit was agreed by the Council's Cabinet on 10 April 2017.

The application site lies within the designated Zone B and accordingly it was necessary to apply this requirement. The net increase in 35 dwellings results in a contribution of £30,485 at the current rate and this needs to be secured by an appropriate legal agreement.

If this contribution was secured through an appropriate S.106 Legal Agreement then the proposal would be considered to comply with ALP policies ENV DM2. However, as no legal agreement is in place, there is conflict with this policy.

SUSTAINABLE DEVELOPMENT:

Policy SD SP1 "Sustainable Development" states that the Council will take a positive approach that

reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework (NPPF). Paragraph 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 following is an assessment of the benefits associated with the proposal.

It is considered that the site location is environmentally sustainable in that it possible to walk or cycle to access nearby shops, services, places of employment and other facilities and that these are all within an appropriate distance such that it is not necessary to travel by car. Furthermore, there is a railway station within walking distance which allows onwards travel to London and other places to the west and east of Bognor Regis.

The proposal is not considered to have any negative or positive impacts on local biodiversity and subject to there being an agreed legal agreement, the harm to the Pagham Harbour SPA would be mitigated. It is considered that the proposal could help to support the local community by providing up to 35 new dwellings to help meet future needs and make a contribution to the Council's current housing land shortfall. The economic benefits would consist of:

- Increased Council Tax receipts;
- New Homes Bonus payments from the Government;
- Creation/maintenance of construction jobs;
- New sources of employment (the three commercial uses);
- New economic activity at the site; and
- Additional spending by new residents on local goods & services.

These benefits do not include affordable homes as the applicant will not agree to the Council's requirements. In addition, with no signed legal agreement in place, it is not possible to refer to the benefits of other new infrastructure in the surrounding area.

Paragraph 11 (d) of the NPPF sets out the application of the 'presumption' for sustainable development which is triggered where the Council's policies most important for determining the application are out-of-date. The Council can currently only demonstrate a Housing Land Supply (HLS) of 2.9 years and as such there is a significant shortfall and hence, its policies are considered out of date. Paragraph 11(d) states that planning 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.

This report finds that there are several adverse impacts associated with the proposal and that these outweigh the benefits set out above. Therefore, the presumption in favour of sustainable development is not engaged.

SUMMARY:

This proposed development concerns an important corner plot on the Bognor Regis seafront and it is considered appropriate in principle to develop it with a building larger than was there originally. This would therefore result in change to the character & appearance of this area and may also necessitate some compromises in respect of the amenities of nearby residential occupiers. The current proposed scheme is considered to be a clear improvement on both previous schemes submitted for pre-application advice and the original plans submitted with this application.

In respect of the impact on the heritage assets (Conservation Area and the setting of the nearby Grade II Listed Building), it is considered that there will be harm but that this will be of a level that allows for it to be outweighed by the economic and social benefits of the proposal. Nevertheless, the Council is still

able to assess the proposal in respect of character and in this respect, the Council is not yet satisfied that the proposed built form (in particular, its design, massing & scale) is appropriate for this sensitive location.

The Council also has concerns with the proposed under provision of residential parking spaces and the impact of this on the surrounding area in terms of the potential for conflict for spaces with existing residents.

Furthermore, it is considered that the proposed building will result in harm to the amenities of existing residents with windows facing onto Norfolk Street. Whilst some harm may be unavoidable with the development of this site, it is not considered that there is sufficient evidence or mitigation provided to allow this at this time.

Lastly, with the applicants refusal to agree to the affordable housing contribution, it has not been possible to put together a Section 106 Legal Agreement and thus the proposal also fails to make the required contributions to local infrastructure or the mitigation necessary to prevent harm to the Pagham Harbour Special Protection Area.

It is therefore concluded that the harm arising from the proposal is too great to be countered by the associated benefits and therefore it is recommended that the application 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.

CIL DETAILS

The proposal is not subject to a CIL contribution as flats and town centre uses in Zone 4 are zero rated and hence it remains possible to secure contributions through a Section 106 Legal Agreement.

RECOMMENDATION

REFUSE

- 1 The proposed development by reason of its height, design & massing would have a harmful impact on the character and appearance of this prominent seafront location. This is particularly significant in respect of the Waterloo Square frontage and wider views thereof. The proposal is therefore in conflict with policies D DM1 & D SP1 of the Arun Local Plan, policies 2 & 8A of the Bognor Regis Neighbourhood Development Plan, the emerging Arun Design Guide, the National Design Guide and section 12 of the National Planning Policy Framework (2019).
- 2 The proposed development does not include sufficient residential parking provision to meet the needs of future occupiers in accordance with the residential parking standards in use at the time and this will result in an increase in pressure for on-street parking spaces which will be harmful to the amenity of existing local residents in the town centre area. No evidence has been provided to demonstrate whether or not there is existing spare parking capacity in the surrounding area. The proposal is therefore in conflict with Arun Local Plan policy T SP1, the Councils Parking Standards supplementary planning document (January 2020) and the National Planning Policy Framework (2019).
- 3 The proposed building by virtue of its height will create harmful overlooking and overshadowing impacts to the existing windows of residential properties on Norfolk Street (namely the flats in the upper floors of Cavendish House and those flats in the rear first floor elevation of 24 Lennox Street) and this is in conflict with policies D DM1 & QE SP1 of the Arun Local Plan, paragraph 127 (f) of the National Planning Policy Framework (2019) and the emerging Arun Design Guide.
- 4 In the absence of agreement to the Councils affordable housing requirements (consisting of 10 dwellings and a £40,000 contribution) and a lack of any viability evidence, the development fails to comply with policy AH SP2 of the Arun Local Plan and paragraphs 62-64 of the National Planning Policy Framework (2019).
- 5 In the absence of a signed Section 106 agreement, the development makes no provision for contributions to off-site public open space, to off-site children's play space, to off-site playing pitches, to off-site built sports & leisure facilities and to education/library/fire & rescue/medical infrastructure improvements, and is thereby contrary to the aims and objectives of the National Planning Policy Framework (2019), 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).
- 6 In the absence of a signed Section 106 agreement, the application fails to make a financial contribution towards the cost of providing accessible natural open green spaces to mitigate the harm to the Pagham Harbour Special Protection Area and the proposal is therefore not in accordance with policies ENV DM1 and ENV DM2 of the Arun Local Plan.
- 7 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 reasons for the refusal, approval has not been possible.