

Recommendation Report for Planning Permission

REF NO: BR/298/20/PL

LOCATION: 25 Sudley Road
Bognor Regis
PO21 1EW

PROPOSAL: New 2 storey extension on first floor with loft floor including 8 (4 front & 4 rear) dormer windows), first floor rear extension (mansard floor) with 8 No roof windows, alterations to ground floor shopfront and new access to upper floor into use for 10 residential units (5 No 1-bed & 5 No 2-bed) (resubmission following BR/196/20/PL). This application may affect the setting of a listed building & the site is in CIL Zone 4 (Zero Rated) as flats.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	It is proposed to add 10 flats above the retail premises by converting part of the ground floor (to provide access stairs, bin and cycle stores) and the whole of the first floor. Extensions are added on the first floor and above the existing first floor (two storeys with the second in a mansard roof). The plans detail several windows on all three elevations but the proposal has been designed to overcome privacy concerns through the use of obscure glazed windows to secondary windows & internal corridors, canted bay windows (side elevation) and high level velux windows. Windows facing Sudley Road have clear glazing. The proposal provides no parking spaces. The ground floor is retained as retail as per approved application BR/264/19/PL.
SITE AREA	0.033 hectares.
RESIDENTIAL DEVELOPMENT DENSITY (NET)	303 dwellings per hectare.
SITE CHARACTERISTICS	The site comprises a part single, part two storey building originally added as a rear extension to premises known as 9-11 Water Tower Buildings which fronts London Road. The affected part of the building fronts Sudley Road but has only windows on this frontage. There are a couple of doors to the side which allow servicing. The building has flat roofs. There is an existing narrow vehicle servicing/parking area which provides access to the rear of other properties fronting London Road. This area is excluded from the proposal. To the south west, above the part of the building fronting London Road and stretching north-westwards along that frontage, there are two floors of residential flats which have windows facing the site.
CHARACTER OF LOCALITY	London Road is part of the main town centre retail area and is

pedestrianised to the front of 9-11 Water Tower Buildings. Sudley Road is mixed with dwellings, commercial properties, car parks and service accesses.

Immediate neighbouring uses include a private car park to the northwest, a community building & private car park on the opposite side of Sudley Road and the rear elevation of a Boots retail store to the south east (offices/storage with no flats above). The part of the building fronting London Road is currently vacant and was last occupied as a "Store Twenty One" (retail) with the afore mentioned two levels of flats above.

RELEVANT SITE HISTORY

BR/196/20/PL	New 2 storey extension on first floor with loft floor & 8 No. new dormer windows (4 No. at front, 4 No. at rear), first floor rear extension (mansard floor) with 8 No. roof windows, alterations to ground floor shopfront & new access to upper floors for use for 10 No. residential units (5 No. 1 bed units & 5 No. 2 bed units) (resubmission following BR/83/20/PL). This application may affect the setting of a Listed Building and is in CIL zone 4 (Zero Rated) as flats.	Refused 16-11-20
BR/83/20/PL	New 2 storey extension on first floor with loft floor and 8 No (4 No front & 4 No rear) dormer windows, first floor rear extension (mansard floor) with 8 No roof windows, alterations to ground floor shopfront & new access to upper floor for 12 No residential units (10 No. 1 bed & 2 No. 2 bed). This application may affect the setting of a Listed Building.	Refused 15-07-20
BR/304/19/PL	Installation of new entrance doors to shopfront, installation of air conditioning & re-colouring of existing shopfront.	ApproveConditionally 06-01-20
BR/264/19/PL	External alterations for separation of building into 2 separate buildings for use as A1 (Shops) & new pedestrian access from new rear unit to Sudley Road.	ApproveConditionally 19-12-19

Pre-application advice concerning the erection of a single storey two part extension with loft floor conversion into 12 flats and roof dormer windows was given in November 2019. The advice was that the proposal would be refused on the grounds of harm to residential amenity, the potential harm to the

streetscene of Sudley Road, the impact of the nil parking provision and the potentially insufficient refuse storage provision. Following this, informal negotiations took place and changes were made to the scheme to overcome most of these issues.

BR/83/20/PL sought permission for 12 flats and was refused solely due to the applicant not agreeing to the affordable housing or infrastructure requirements and as such there was also no likelihood of a s106 Agreement being agreed to secure the Pagham Harbour mitigation measures or a Traffic Regulation Order. The previous application attracted the following developer contributions and provisions:

- £20,720 (Education, Libraries, Fire & Rescue);
- £77,920 (Open Space, Play, Sports Pitches, Built Leisure Facilities);
- £9,662 (NHS);
- £10,452 (Pagham Harbour); and
- 4 x affordable dwellings

This equated to a total financial contribution of £118,754 plus the affordable housing provision.

Following the refusal of BR/83/20/PL, the applicant informally submitted a drawing showing 10 flats and this was informally stated to be acceptable. The applicant was reminded before submission that a submission of 10 flats would still attract s106 contributions comprising: NHS & WSCC Infrastructure contributions (schools, libraries, fire & rescue); sports, play & open space contributions; and a Pagham Harbour contribution.

BR/196/20/PL was then submitted for 10 flats (being under the threshold for affordable housing). However, the applicant would not agree to the s106 contributions (£97,414) and requested more time to provide a Viability Assessment. The application was refused on this basis in November 2020.

This new application was received on 15/12/20 and included a viability appraisal entirely focussed on the impact of affordable housing contributions on viability. The applicant was advised that this would be disregarded as it was not relevant to the scheme of 10 dwellings. A revised appraisal was received on 08/01/21 and this was submitted to the Councils retained consultants for review.

REPRESENTATIONS

Bognor Regis Town Council state No objection.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

NATURAL ENGLAND - No objection but require that the Local Planning Authority carries out an Appropriate Assessment to assess the impact of increased recreational disturbance arising from the proposal on the Pagham Harbour Special Protection Area (SPA) & Ramsar Site.

NHS - No response received. Previously advised (BR/83/20/PL) of the need for a contribution of £9,662 to Bognor Health Centre to assist with getting services onto the 1st floor / improvements to the ground floor.

SUSSEX POLICE - No objection. Set out a list of required security measures (response dated 05/01/21).

WSCC HIGHWAYS - No objection subject to conditions (Travel Information Packs & Cycle Storage) and a TRO to secure additional on-street residential permit parking spaces. Comment that:

- Site is in highly sustainable location;
- Based on census data, the proposal generates a demand for 5 parking spaces;
- Parking survey sets out that there is spare capacity along Sudley Road either within P&D bays (which would need to be converted) or on the highway (requiring removal of double yellow lines);
- These changes would achieve 5 extra permit spaces and these works would need to be achieved through a Traffic Regulation Order; and
- No objection to the submitted Construction Management Plan.

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

- (1) Primary Education - £6,295 on additional equipment at Edward Bryant Primary School;
- (2) Secondary Education - £13,826 on phase 1 of the new secondary school in Arun;
- (3) 6th Form Education - £1,587 on additional equipment at Felpham Community College;
- (4) An unspecified number of new fire hydrants.

WSCC FIRE & RESCUE - All flats must be within 45m of a fire appliance. If not then either a dry riser fire main or a domestic sprinkler system will be required.

ADC ENVIRONMENTAL HEALTH - Previously (BR/196/20/PL) requested a sound insulation condition.

ADC HOUSES IN MULTIPLE OCCUPATION OFFICER - No objection. Advise a number of points in their response dated 12/02/21 as regards fire safety, internal room sizes, ventilation and safety of balconies which will be relevant for when a license is applied for.

ADC DRAINAGE ENGINEER - No objection and no conditions. Drainage to be secured through Building Regulations.

ADC STRATEGIC PROJECTS (LEISURE) - Previously advised (BR/196/20/PL) of the need for the following contributions to be secured:

- £3,767 towards the community sports hub to be provided at West of Bersted;
- £1,400 towards the community sports hub to be provided at West of Bersted; and
- £4,052 towards wet side shower provision at a new leisure centre for the district.

ADC PARKS & LANDSCAPE - No objection subject to a legal agreement to secure £19,712 for planting refurbishment and £17,303 for play equipment at Hotham Park in Bognor Regis.

The following additional requirements are from the additional response given to BR/196/20/PL:

- £1,084 plus £4,560 (20 years maintenance cost) for improvement to the grass playing surface of the football pitches at Avisford Park Recreation Ground, Bognor Regis and also £2,958 for improvements to ancillary facilities at the same site;
- £333 plus £1,420 (20 years maintenance cost) for improvements to the grass playing surface of the rugby pitches at Bognor Regis Rugby Club and also £820 for improvements to ancillary facilities at the same site;
- £801 plus £3,240 (20 years maintenance cost) for improvements to the grass playing surface of the

cricket pitches at Felpham Recreation Ground, Bognor Regis and also £937 for improvements to ancillary facilities at the same site; and

- £830 plus £580 (20 years maintenance cost) towards surfacing 3G pitches at the West Bersted strategic development and £288 for ancillary facilities at the same site.

ADC CONSERVATION OFFICER - Comments that:

- There are a number of locally listed buildings in the local area as well as a Grade II listed building in Sudley Road itself (The Bognor Club). This is experienced in an urban setting and has architectural and communal significance;
- The locally listed buildings collectively form an attractive street-scene, representing part of the development of the town;
- The proposal will respect the form/materials of the existing and as such has a neutral impact upon the surrounding assets. Materials and joinery should be conditioned; and
- The site is some distance from the listed building, and, along with the presence of a large, modern building adjoining the site, means that the setting of the listed building will not be harmed; and
- The application will not cause harm to the significance of the heritage assets or their setting.

ADC ECONOMIC DEVELOPMENT - No response but commented at pre-application stage that they are keen to support development that brings footfall and accommodation to Town Centres.

COMMENTS ON CONSULTATION RESPONSES:

NATURAL ENGLAND - An Appropriate Assessment was carried out and submitted to Natural England on 16/02/20. They responded on 02/03/21 to state that provided that the Pagham Harbour contribution is secured via a legal agreement, then the appropriate assessment can ascertain that there will be no adverse effect on the integrity of the European Site in view of its conservation objectives. Natural England is of the view that if these measures, including contributions to them, are implemented, they will be effective and reliable in preventing harmful effects on the European Sites for the duration of the proposed development. A copy of the Appropriate Assessment is on the website files.

POLICY CONTEXT

Designations applicable to site:

Within the Built Up Area Boundary;
 Within 2km of Bognor Reef SSSI;
 Within 2km of Felpham SSSI;
 Pagham Harbour Access Management Zone B;
 Bognor Regis Town Centre Boundary;
 CIL Zone 1; and
 Flood Zone 1.

DEVELOPMENT PLAN POLICIES

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

DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
DDM4	D DM4 Extensions&alter to exist builds(res and non-res)
DSP1	D SP1 Design
EMPSP1	EMP SP1 Strategic Economic Growth

ECCSP1	ECC SP1 Adapting to Climate Change
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVDM2	ENV DM2 Pagham Harbour
HERSP1	HER SP1 The Historic Environment
HERDM2	HER DM2 Locally Listed Buildings or Structures of Character
RETDM1	RET DM1 Retail development
RETSP1	RET SP1 Hierachy of Town Centres
HWBSP1	HWB SP1 Health and Wellbeing
QEDM1	QE DM1 Noise Pollution
QEDM2	QE DM2 Light pollution
QESP1	QE SP1 Quality of the Environment
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
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 4	Reducing underuse of property in the town centre
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

SUPPLEMENTARY POLICY GUIDANCE:

SPD9	Buildings or Structures of Character
SPD11	Arun Parking Standards 2020
SPD12	Open Space, Playing Pitches & Indoor & Built Sports Facilities

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan and Made Neighbourhood Development Plans. The relevant policies of the Bognor Regis Neighbourhood Development Plan are considered within this report.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

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

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

The proposal is considered to conflict with relevant Development Plan policies in that the developer will not agree to the infrastructure contributions and that their viability case has been found to be inadequate. As such, in the absence of a Section 106 legal agreement, the proposal makes insufficient provision for residential parking, sports/play and other infrastructure requirements. The proposal also fails to provide for the necessary mitigation measures in respect of the Pagham Harbour SPA.

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

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

- (a) the provisions of the development plan, so far as material to the application,
- (aza) a post-examination draft neighbourhood development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

OTHER MATERIAL CONSIDERATIONS

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

CONCLUSIONS

PROPOSAL & PRINCIPLE:

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

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 in the built-up area in a highly sustainable location with potential for trips to be made on foot, by cycle or by bus. There is a railway station nearby. The new homes could result in moderate benefits to the local community & economy by providing residential accommodation to help meet future needs, create/maintain construction jobs, improve local infrastructure and result in additional spending in the local area by future residents.

The Council can demonstrate a 3.3 year housing land supply. This proposal provides 10 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 policy SD SP2 and with the guidance in the NPPF on the efficient use of land.

IMPACT ON THE TOWN CENTRE:

The site is shown in the ALP as being in the defined Bognor Regis Town Centre Area and in an economic growth area. ALP policy RET SD1 states that Bognor Regis and Littlehampton will be the main focus for major retail, leisure, commercial, office, tourism, cultural, community and residential development. It is also relevant to note that ALP policy EMP SP1 states that the Council will promote the sustainable growth of the District's economy to meet the varying needs of different economic sectors and to support regeneration within the two main towns. The policy sets out support for "the provision of appropriately scaled development where such uses compliment, and are compatible with, employment/commercial uses".

ALP policy RET DM1 states that proposals for the re-use of vacant floorspace on the upper levels for residential, commercial and community purposes will be permitted provided that:

- (a) It can be demonstrated that non retail use of the upper floor will not inhibit business needs for workspace, storage or retail expansion;
- (b) The development has no significant adverse effects for the occupiers of neighbouring properties; and
- (c) The proposal reflects the need to minimise noise intrusion.

The policy states a reduction in car parking standards will normally be acceptable provided there is no adverse effect on the levels of traffic congestion and road safety.

Policy 4 of the Bognor Regis Neighbourhood Development Plan (BRNDP) states proposals to reuse empty/underused property above shops and commercial premises located along designated primary and secondary retail frontages will be supported and that where appropriate, applications should include improved access, extensions and energy efficiency measures.

The proposal complements the retail function of the town centre area by increasing footfall in and around the town centre which could result in a boost to sales of local shops. A populated building in a central location adds an element of passive surveillance in times when the area is least inhabited and this can help reduce antisocial behaviour in town centres.

Despite this being raised at pre-application stage and in the previous report, the applicant has not provided any response to criteria (a) of RET DM1. However, it is known that the premises was formerly occupied by companies in the Alok Group (QS, Bwise & more recently Store Twenty One). As the latter ceased trading in July 2017, it seems clear that the premises have been vacant for some time. According to Google Streetview, the Sudley Road frontage has had blacked out windows for over 10 years thus having no retail presence. In addition, minutes of a Bognor Regis Town Council Meeting from 21/04/09 noted that "The Sudley road rear of Bwise windows were blank and cracked. This and other similar shop windows within the town were identified as an opportunity for art, murals, etc."

It is unclear what the first floor was used for but existing floor plans state "workshop" and in any case, this will have been vacant for some time. It is not considered the proposal will inhibit the attractiveness of the premises and very likely will have the opposite effect. The other two criteria in policy RET DM1 will be explored elsewhere in this report.

The proposal is in conflict with part (a) of policy RET DM1, however, it is not considered an objection should be raised as the premises have clearly been vacant for some time. The proposal accords with ALP policies EMP SP1 & RET SP1 and with BRNDP policy 4.

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."

Policy T DM1 requires new development be located in 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. The Council has adopted a Parking Standards Supplementary Planning Document (SPD).

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."

According to the Parking Standards SPD, there would be a requirement for 10 allocated parking spaces and 2 visitor spaces (12 in total). The proposal provides zero spaces. It is acknowledged that new residents of the flats will be aware that there are no parking facilities on site before they 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.

The applicant provides evidence in the form of a parking capacity survey to justify the lack of parking. This sets out a likely demand for 5 spaces based on local census data. The Survey identifies locations on Sudley Road where 5 residential permit spaces could be accommodated. The advice of WSCC Highways is summarised above. They have no concerns provided the 5 additional on-street spaces identified by the Parking Capacity Survey are secured through a Traffic Regulation Order (TRO). This would need to be subject to a S.106 legal agreement and as the applicant is unable to agree to the Councils requirements in respect of developer contributions, it has not been possible to prepare a legal agreement to secure the TRO.

BRNDP policy 8b states 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. The application is not accompanied by either document - the Arun DC validation criteria only requiring these for 20+ dwellings. As stated above, WSCC Highways do not object and recommend homeowners are provided with Travel Information Packs to make them aware of local non-car transport modes.

The proposal is acceptable in respect of policies relating to highway safety. In respect of parking, it would be only be acceptable if the TRO can be secured. Therefore, as it stands, the proposal conflicts with Arun Local Plan policy T SP1 and the Councils Parking Standards supplementary planning document (January 2020).

HERITAGE ASSETS:

The site lies diagonally opposite a pair of locally listed buildings. It is about 195m from a Grade II Listed Building (The Bognor Club) located at the opposite end of Sudley Road and 143m from the Grade II

Listed Bognor Regis Railway Station.

The relevant Local Plan policies are HER DM1 (Listed Buildings) and HER DM2 (Locally Listed Buildings or Structures of Character). Policy HER DM1 requires proposals protect and, where possible, enhance the setting of Listed Buildings. Policy HER DM2 covers the alteration or extension of such buildings and does not infer any protection to the setting of these. BRNDP policy 1 requires proposals identify the significance of any affected heritage asset and assess any harm and benefit.

Section 66(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states: "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."

It is necessary to consider policy guidance in the 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).

In respect of non-designated heritage assets (such as locally listed buildings), para 197 requires that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Despite heritage being raised at pre-application stage, the applicants have not provided a Heritage Statement in any of their three submissions. The Conservation Officer considers that the surrounding heritage assets are experienced in an urban setting and the nearby Bognor Club has architectural and communal significance. The Conservation Officer does not acknowledge the closer Railway Station however, it is considered that this is significant for the same reasons.

The Conservation Officer considers the site is some distance from listed buildings, and this along with the presence of other large, modern buildings in between (such as the rear frontage of the large Boots building opposite the two locally listed buildings), means the setting of the listed buildings will not be harmed. It is concluded there will be no harm to the significance of heritage assets and their setting.

As such, it is not necessary to weigh any harm against public benefits and therefore, the proposal is in accordance with the NPPF guidance. In addition, it is considered that the proposal does not conflict with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 or the relevant development plan policies.

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.

Policy D DM1 also 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. The Arun Design Guide also promotes higher densities in urban and town centre areas stating that 60-100 dwellings per hectare is appropriate. The proposed density is 303 dwellings per hectare which is significantly greater than the range set by the Design Guide however, it is not considered that this results in any harm to character and the density has been accepted by both of the previous applications.

ALP Policy D DM4 requires that extensions/alterations: sympathetically relate to and are visually integrated with the existing building in siting, massing, design, form, scale & materials; are visually subservient to the main building & provide a high standard of amenity and do not compromise the established spatial character & pattern of the place. BRNDP 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.

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.

The applicant has not provided a Design & Access Statement with this submission but did so on the two previous applications and these stated that the proposal complies with the NPPF and Arun Local Plan but in practice provided limited information and did not reference either the National or Arun Design Guides. It is therefore unclear as to how the proposal meets the criteria in the Design Guides.

The proposal conflicts with ALP policy D DM4 as the extensions are not subservient to the host building. However, they are considered to comply with the other parts of the policy as they will match the form, height & materials (matching brick - subject of a condition) of the adjacent Boots building and will visually improve on the appearance of the host building which has a drab grey frontage onto Sudley Road. The enlarged building will not be visible from the street level of London Road. The mansard roof matches the pitch of the glass atrium atop the Boots building. The extensions to the rear are only at first floor and appear subservient to the larger part of the extended building. It is considered the extensions are acceptable and will not have any harmful impact on the streetscene or the character of this mixed commercial/residential area.

The proposal conflicts with ALP policy D DM4 (b) but is considered to comply with the other criteria and with policies D DM1 & D SP1 and the guidance on design in the NPPF. In respect of BRNDP policy 8a, the proposal conflicts in part as it is not considered to demonstrate design excellence but otherwise improves the streetscene and will enhance the sense of place in this location.

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". The Arun Design Guide sets out

guidance on interface distances between dwellings and these are: 21m for back to back, 16m for front to front and 14m for front/back to side.

There are flats on multiple floors above the former Store Twenty One premises on London Road and these have principal windows and a balcony/open air landing (first floor only) facing the south west (rear) elevation of the converted/extended building. Due to this, the original scheme at pre-application stage was amended to remove balconies, to change the windows of flats 1-4 so as to be high level velux and to reorganise the second & loft floors to have only access corridor windows on the elevation facing these flats. The latter can be obscure glazed without harming the amenity of future occupiers. In addition, the second & loft floors are set some distance back from the extent of the first floor.

There are further flats at first & second floor level to the west and north west of the converted/extended building and for this reason, the scheme was also amended to ensure that any flank facing windows are either obscure glazed or if serving principal windows then feature a canted bay designed to only permit views out towards Sudley Road. There is no harm to properties on Sudley Road as the flats face a Recital Hall and its car park.

The extensions introduce two new floors and may affect the light reaching windows of nearby flatted buildings. These new floors will be between (approx.) 11.5 and 15.5m from the existing flats opposite. When the sun is in the east (morning), the new building works may affect light reaching these windows but this is mitigated by the interface distance and the fact that the windows are above ground floor. The existing flats have west facing windows onto London Road which are unaffected. It is considered that any impact will not be harmful to existing residential occupiers.

The height of built form on this site will not conflict with policies D DM1 & QE SP1 of the Arun Local Plan, paragraph 127 (f) of the National Planning Policy Framework or 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 following demonstrates that all of the flats accord with the guidance:

Plot	Unit Type	Internal Space	National Standard
1	- 1S/1B/2P	- 53.8m ²	- 50m ²
2	- 1S/1B/1P	- 41.3m ²	- 37m ²
3	- 1S/1B/1P	- 48.4m ²	- 37m ²
4	- 1S/1B/1P	- 46.4m ²	- 37m ²
5	- 1S/2B/3P	- 73.7m ²	- 61m ²
6	- 1S/2B/2P	- 65.7m ²	- 61m ²
7	- 1S/1B/2P	- 74.1m ²	- 50m ²
8	- 1S/2B/3P	- 71.55m ²	- 61m ²
9	- 1S/1B/2P	- 55.7m ²	- 50m ²
10	- 1S/2B/3P	- 67.9m ²	- 61m ²

There are no policies in the ALP relating to garden sizes but the 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 in the site to provide communal amenity space and it was not possible to provide balconies due to space/the need to protect amenities of existing flats. The central location means that residents will be a short distance from the seafront and parks. This is acceptable as the Design Guide is guidance not policy.

It is considered the scheme will provide 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. Furthermore, policy WM DM1 requires the provision of waste storage provision.

Environmental Health did not comment on air pollution. The site is in the town centre and residents have easy access to a range of sustainable transport measures. Cycle storage is provided in the building and there are internal waste facilities. The site can be serviced from the public highway.

The proposal therefore complies with ALP policies 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."

Environmental Health raise no objections subject a condition to secure sound insulation between the ground and first floors. The area is in a mixed commercial/residential use therefore flats over shops is not uncharacteristic and persons moving into the flats will be aware of the potential for disturbance at certain times. There is no conflict with ALP policy QE DM1.

CLIMATE CHANGE/SUSTAINABLE CONTRUCTION:

ALP policy ECC SP2 requires 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 previously (Br/196/20/PL) provided a limited response stating "The proposal addresses concerns on sustainable design and construction by converting the upper floors to provide far better insulation and efficiency in heating with the overall aim of reducing emissions."

A planning condition could be imposed to secure these details and on this basis, it is considered that the proposal would, if approved comply with policies ECC SP1 and ECC SP2..

VIABILITY:

ALP policies INF SP1 & OSR DM1 do not set out any guidance on the use of viability assessments to reduce or remove the infrastructure requirements. Paragraph 57 of the NPPF states that where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker. All viability assessments should reflect the recommended approach in the NPPG.

The applicant provided a Viability Appraisal (VA) which is on the Councils website. This was prepared on the basis of the £97,414 worth of contributions as set out by the BR/196/20/PL application report (this total includes the £8,710 Pagham Harbour contribution). The contribution level has decreased slightly to £94,500 (again including the Pagham contribution) but the difference is not significant.

The submitted VA sets out the following assessment:

Scenario	Residual Land Value	Benchmark Land Value	Surplus/Deficit
No s106 costs	£1,121,368	£1,382,073	-£260,705
Inc s106 costs	£1,035,014	£1,382,073	-£347,059

The VA concludes the development will not create any surplus to support any s106 costs and that if the s106 costs are included, there would be a net loss which would prevent the site from coming forward.

The Council has sought an independent review of the VA by its retained viability consultants (Dixon Searle Partnership or DSP) and this concludes that:

- The overall approach to assessing development viability is appropriate in terms of general principles & approach;
- Whilst there are queries/concerns with certain areas, viewed overall, many of the submitted assumptions are within an appropriate range;
- Certain elements of the works costs are potentially high but it is not necessary to adjust because there are other assumptions that might be said to compensate to some degree;
- However, without any adjustments to the appraisal it is considered that there is viability scope to support the necessary s.106 planning obligations;
- This is because the Benchmark Land Value (BLV) is significantly higher than is considered appropriate in the circumstances. DSP ;
- DSP suggest that a much lower BLV of around £650,000 would be appropriate and this would generate significant surplus;
- The s106 costs are not responsible for a switch from viability to non-viability and the scheme appears unlikely to be marginal to that extent with savings being made elsewhere;
- There should be some scope for unfavourable values / cost movements before viability is actually threatened once a more realistic assessment of BLV is made;
- At approx £1.38m the submitted BLV is out of balance with the scheme value & other costs;
- Therefore, a convincing case has not been made that the stated s.106 costs cannot be supported in this case;
- A later stage review may be necessary as costs & values may change;
- To be clear, the review is based on current day costs & values assumptions; and
- As set out in the PPG, a balanced assessment of viability should consider the returns against risk for the developer and also the aims of the planning system to secure maximum benefits in the public interest through the granting of planning permission.

It is not considered that applicant has demonstrated it is unviable to bring the development forward without the necessary contributions. Without such infrastructure contributions, there is conflict with ALP policies OSR DM1, HWB SP1 and INF SP1.

PUBLIC OPEN SPACE & PLAY:

ALP policy OSR DM1 requires that housing developments provide sufficient public open space (POS), playing pitch provision and indoor sport & leisure provision. In addition, policy HWB SP1 seeks to ensure that new development is designed to maximise the impact it can make to promoting healthy communities and reducing health inequalities.

This site is in a sustainable location and will promote walking and cycling with access to public parks, the seafront and cycle lanes. There are art, leisure and cultural facilities nearby or in 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 the need for the contributions towards off-site POS, off-site Play, off-site Health & Fitness, off-site Sports Halls, off-site Swimming Pools and off-site Playing Pitches.

There is no space on site to provide open space, play or other sports facilities. 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 assessed the likely impacts of the proposal and consider it should make contributions to specific projects for existing public open space, play and indoor/outdoor leisure facilities in the area. These are set out above in the Consultations section.

If these contributions were to be secured through a S.106 Legal Agreement the proposal would comply with ALP policies OSR DM1 and HWB SP1. However, the applicants do not consider that the scheme would be viable if these had to be provided but this argument has not been accepted (see section on Viability). It has not been possible to secure these contributions through a legal agreement and therefore, 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 Reg 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 received a request from WSCC for contributions towards specific projects at sites in the area. The requirements meet the CIL tests (Regulation 122 of the Community Infrastructure Levy Regulations 2010). It is noted that the NHS also previously requested a contribution on BR/83/20/PL however this is not considered by this report as the original application sought a different number of dwellings and a different mix of dwelling sizes - and there has been no NHS response to either of the two applications for 10 dwellings.

If these contributions were secured through a S.106 Legal Agreement the proposal would comply with ALP policy INF SP1. The applicants do not consider that the scheme would be viable if these had to be provided but this argument has not been accepted (see Viability section). It has not been possible to secure these contributions through a legal agreement and there is conflict with these policies.

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 agreed strategic access management measures. A contribution of £871 per new residential unit was agreed by the Councils Cabinet on 10 April 2017.

The site is in the designated Zone B and it is necessary to apply this requirement. The net increase in 10 dwellings results in a contribution of £8,710 and this needs to be secured by a legal agreement.

If this contribution was secured through a S.106 Legal Agreement the proposal would comply with ALP policies ENV DM2. However, as no legal agreement is in place, there is conflict with this policy. The lack of a legal agreement to secure this also results in the Appropriate Assessment as agreed with Natural England being invalid.

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 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.

Para 11 of the NPPF then 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 demonstrate a Housing Land Supply (HLS) of 3.3 years and there is a significant shortfall and hence, its policies are considered out of date. To be able to benefit from the presumption, the proposal must be assessed as being sustainable development and this assessment should consider environmental, social and economic factors.

The site location is environmentally sustainable as it is possible to walk/cycle to access shops, services, places of employment and other facilities and these are in an appropriate distance such that it is not necessary to travel by car. There is a railway station in walking distance allowing onward travel to London and other places to the west and east of Bognor Regis. The proposal is not considered to have direct environmental impacts but without a legal agreement to secure the Pagham Harbour contribution, there will be unmitigated harm to the Pagham Harbour SPA.

The proposal could help to support the local community by providing 10 dwellings to help meet future needs and make a contribution to the Council's housing land shortfall. Economic benefits consist of:

- Increased Council Tax receipts;
- New Homes Bonus payments from the Government*;
- Creation/maintenance of construction jobs;
- Increased passive surveillance of Sudley Road; and
- Additional spending by new residents on local goods & services/increased footfall in the town centre.

* The New Homes Bonus is a local finance consideration and section 70(2) of Town and Country Planning Act 1990 (as amended) provides that local planning authorities should have regard to any local finance considerations, so far as material to the application.

However, with no signed legal agreement in place, it is not possible to refer to the benefits of other new infrastructure including open space/play/sports facilities in the surrounding area.

On balance the proposal does meet the economic, social and environmental aspects of sustainable development and the presumption in favour of sustainable development would be engaged. The Presumption states that 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.

SUMMARY & RECOMMENDATION:

This proposal complies with the Council's policies on design, amenity, pollution, heritage, town centres and climate change. However, the applicant will not currently agree to the infrastructure requirements (which now amount to £85,790) and there is therefore also no likelihood of a S.106 Agreement being agreed to secure the Traffic Regulation Order or the contribution of £8,710 to the Pagham Harbour mitigation measures.

The proposal therefore conflicts with ALP policies INF SP1, HWB SP1, OSR DM1, ENV DM1, ENV DM2 & T SP1 plus policy 8b of the Bognor Regis Neighbourhood Development Plan and the Council's SPD's on Parking and Open Space.

This assessment concludes the adverse impacts of granting this planning permission significantly and demonstrably outweigh the benefits and it is recommended the application be refused for the reasons below.

HUMAN RIGHTS ACT

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

Consideration has been specifically given to Article 8 (Right to respect private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

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

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

RECOMMENDATION

REFUSE

- 1 In the absence of a satisfactory viability case and 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 NPPF (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).
- 2 In the absence of a signed Section 106 agreement, the application fails to make a financial contribution towards the towards the agreed strategic access management measures 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.
- 3 In the absence of a signed Section 106 agreement, the development makes no provision for additional on-street residential permit parking spaces to offset the demand created by the development and is thereby contrary to the NPPF (2019), policy T SP1 of the Arun Local Plan, policy 8b of the Bognor Regis Neighbourhood Development Plan and the Council's Parking Standards supplementary planning document (January 2020).
- 4 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.