

DESIGN & ACCESS STATEMENT

ON BEHALF OF

• MR P HUDSON & MR P MEREDITH

REGARDING:

AN OUTLINE APPLICATION FOR THE
ERECTION OF EIGHT ONE-BEDROOM
FLATS AND SIX TWO-BEDROOM FLATS
AT:

18 DURBAN ROAD, BOGNOR REGIS,
PO22 9QT

PREPARED BY ADEPT
PLANNING & DESIGN

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1.0 SUMMARY

1.1 This design statement is submitted in support of the proposal to provide a development of flats.

1.2 The site lies within the urban area where residential development is acceptable in line with local, regional and national planning policies. It is acknowledged that the site lies both within the flood zone and adjacent to an industrial estate, but this should also be considered in the context of an appeal decision where the Inspector found in favour of residential development, and the recent refusal where flooding was not raised as an issue.

1.3 Contrary to the recommendation of the Council's own planning department, the recent planning application, reference BR/341/10 was refused for the following reasons by the Planning Committee:

- *The proposal, if permitted, would result in a loss of a significant employment site on a serviced industrial estate and the proposal and its potential impact on adjacent industrial users would be premature pending a conclusion to the Council's proposal for this area to be part of an Enterprise Zone.*

- *The proposal would result in a high density and cramped form of development resulting in limited amenity space which would be detrimental to the living conditions of the occupiers of the flats, being 8 no. 2 bed flats and 6 no. 1 bed flats. The proposal would be detrimental to Policy GEN7 of the Arun District Local Plan and PPS3 (as revised 2010), Ministerial Statement of 9th June 2010 and PPS1.*

1.4 The **Inspector's** appeal decision for application BR/381/07 and the above reasons for refusal have provided a clear, apparent and robust direction in which to steer this current application.

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- 1.5 The first reason for refusal does not reference a single planning policy, but instead refers to a proposal for the area to be part of an Enterprise Zone. There is no information or justification for such a designation to be given weight such that it prejudices the outcome of any planning application, and as Section 38 of the Planning and Compulsory Purchase Act 2004 dictates, such determinations, **'must be made in accordance with the plan unless material considerations dictate otherwise.'**
- 1.6 With no Enterprise Zone in place, the refusal reason is not robust and has no basis in planning policy. This was demonstrated in the outcome of the appeal decision for BR/341/10 where the inspector found this to have no evidence to support it and awarded costs against the Council.
- 1.7 The second reason for refusal does however have some validity– the level of amenity provision is not as generous as it could be and is slightly unusual in arrangement. The applicants acknowledge this and have agreed to reduce the level of development from eight two-bed units and six one-bed units to eight one-bed units and six two-bed units.
- 1.8 This application is also completely outline in form, with only the principle of development to be agreed at this stage. This allows for the applicants to work with the planning officers to provide whatever they consider to be the optimal layout.

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- 1.9 The Council should therefore support this application. If the Council does not, the applicants shall again be forced to go down the appeal route and be forced to apply for a full award of costs, and will be very likely to succeed.
- 1.10 The simple and logical conclusion therefore is that the proposal can only be construed as acceptable. The following sections shall reference the character of the locality, relevant planning policies and appeal decisions, but for the above reasons, the proposal should be viewed favourably by the Local Planning Authority.

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2.0 POLICY CONTEXT

2.1 CENTRAL GOVERNMENT GUIDANCE

2.2 Planning Policy Statement 1 – Delivering Sustainable development (PPS1) advocates sustainable and inclusive urban and rural development by providing increased access for all with regard to jobs, health, education, shops, leisure and community facilities amongst others, by ensuring that new development is within locations that are accessible by foot, bicycle or public transport rather than having to rely on access by car. PPS1 provides guidance very relevant to this application:

‘Planning should seek actively to bring vacant and under-used previously developed land and buildings back into beneficial use to achieve the targets the Government has set for development on previously developed land’.

2.3 With the Government’s removal of the presumption in favour of developing garden land, sites such as Durban Road have become even more important in terms of delivering the housing needs of the area, and in reaching the regional housing target that is currently still of relevance in the South East Plan.

2.4 Planning Policy Statement 3: Housing was published in June 2011 to take into account recent amendments, such as removing residential garden land from the definition of previously developed land, and also minimum density requirements. It remains firmly in favour of the more efficient use of land, particularly that which is well located:

The specific outcomes that the planning system should deliver are:

- *A sufficient quantity of housing taking into account need and demand and seeking to improve choice*
- *Housing developments in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure*
- *A flexible, responsive supply of land – managed in a way that makes efficient and effective use of land, including re-use of previously developed land, where appropriate.*

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2.5 Planning Policy Guidance Note 13: Transport re-iterates the importance stressed within the preceding policies of the importance of reducing the reliance upon the private car, by introducing higher density development in sustainable locations, such as the site subject of this application.

2.6 SOUTHEAST PLAN

2.7 Policy SP3: Urban Focus and Urban Renaissance disseminates down from central Government guidance, endorsing the need for avoiding unnecessary travel, requiring Local Planning Authorities (LPAs) to:

Seek to achieve at least 60% of all new development across the South East on previously developed land and through conversions of existing buildings

Use strategic land availability assessments to identify the scope for re-development and intensification of urban areas, seeking opportunities for intensification around transport hubs and interchanges

2.8 Policy CC6: Sustainable Communities and the Character of the Environment strives for new development to enhance the character and distinctiveness of settlements whilst creating a sense of place.

2.9 Policy H1: Regional Housing Provision 2006-2026 sets the requirement for housing provision in the Arun District as being 11,300 over this period, an average of 565 dwellings a year. A target that may only be achieved through the intensification of previously developed land.

2.10 Policy H3: Affordable Housing of the South East Plan is an over-arching policy that seeks for Local Authorities to substantially increase the amount of affordable housing in the region, by basing policy and funding decisions on a sound evidence base, gathered through the strategic housing market assessment process. It seeks for authorities to have affordable housing targets, and local thresholds, **all of which should be based upon a sound evidence base.**

2.11 Policy H5: Housing Density and Design of the South East Plan requires new housing to be high in quality with more sustainable patterns of development to be achieved, **with higher densities encouraged**, seeking to achieve a minimum regional target of 40 dwellings per hectare.

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2.12 DISTRICT LOCAL PLAN

2.13 Policy GEN2: Built-up Area Boundary – permit development or re-development within the built-up boundaries, subject to the other policies within the plan.

2.14 Policy GEN11: Flooding will refuse development that materially decreases the capacity of a floodplain to store of pass flows of floodwater, unless the Local Planning Authority (LPA) is satisfied that compensatory flood storage/waterway areas can be provided as part of the development.

2.15 Policy GEN12: Parking in New Development regards the **Council's** parking standards and does not allow parking in excess of these standards.

2.16 Policy GEN7: The Form of New Development: shall only grant permission for schemes displaying high quality design and layout.

2.17 Policy GEN8: Development and the Provision of Infrastructure prohibits new development unless the infrastructure or facilities made necessary by the development are available or will be provided at the appropriate time.

2.18 Policy GEN9: Foul and Surface Water Drainage allows the LPA to refuse applications that materially increase foul and/or surface water discharges unless the LPA is satisfied that either adequate drainage capacity exists or appropriate drainage capacity can be provided as part of the development.

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2.19 MINISTERIAL STATEMENTS

2.20 On the 9 June 2010 The Minister of State Greg Clark issued the Previously Developed Land (Density) Statement which gives local authorities the freedom to prevent overdevelopment of neighbourhoods and 'garden grabbing'. It removes gardens from the definition of previously developed land in PPS3 and removes the requirement upon local authorities to have regard to the national minimum density for housing set out in paragraph 47 of PPS3.

2.21 The removal of national indicative thresholds for density allows Councils to formulate their own density ranges across their development area, however Local Plan policy GEN7 still commits the council to achieving densities of at least 30 dwellings per hectare.

2.22 On the 23 March 2011 the Minister of State for Decentralisation Mr Greg Clarke issued the Planning for Growth statement, which sets out the steps the Government expects local planning authorities to take, 'with immediate effect'. Within this statement local planning authorities are urged to:

Take into account the need to maintain a flexible and responsive supply of land for key sectors, including housing

Take a positive approach to development where new economic data suggests that prior assessments of needs are no longer up-to-date.

When considering applications Local Planning Authorities should facilitate housing development and should ensure that they do not impose unnecessary burdens on development

2.23 CONSULTATION PAPER

2.24 In April 2011 the Department for Communities and Local Government published the Consultation Paper Relaxation of planning rules for change of use from commercial to residential. Consultation responses had to be received by 30 June 2011. The document seeks to encourage growth by:

encouraging developers to bring redundant commercial premises back into use and at the same time help tackle the need for more housing.

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2.25 The manner in which it would do this is to introduce permitted development rights to allow changes of use from B1 to C3 without the need for planning permission. Paragraph 21 of the paper acknowledges that there needs to be a certain level of vacancies in each sector, but this is at five percent. Higher vacancy rates in the commercial sector suggests that some shift of use from commercial to housing can be accommodated with only a very limited impact. In turn this makes better use of buildings no longer needed and/or unsuitable for their original purpose.

2.26 The paper in Paragraph 27 acknowledges that there may be some instances where such land may not be suitable to residential development, but given that the application site has been the subject of an appeal and a re-submission, and there has never been an issue raised on the locality not being able to accommodate residential uses

2.27 A letter from the Chief Planner, Steve Quartermain, was sent to local planning authorities regarding the consultation paper (Appendix ??) and states:

The secretary of State will also be looking at the scope for further liberalisation and how we might remove barriers to change of use.

2.28 The history of the site to date has been one where change of use to residential has been supported by both the Planning Inspectorate and planning officers, with the Inspectorate decision pre-dating the ministerial statement and consultation paper, but it is clear that central Government currently provides a far greater steer towards support of change of use to residential, to support housing need and recognise the disproportionate amount of commercial sites lying derelict.

2.29 ENTERPRISE ZONES

2.30 Enterprise zones do not form part of planning policy. With reference to the first reason for refusal of planning application BR/341/10 (examined further in this statement), it is necessary to provide information on this aspect.

2.31 In the 23 March 2011 Budget it was announced that ten areas had been selected as the first wave of 10 enterprise zones, which would have a range of new powers to help encourage long-term local economic growth. These include:

- A 100% business rate discount;
- The retention of all business rates growth within the zone for at least 25 years;

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- A ‘radically simplified’ planning approach within each zone;
- Government support to ensure that super-fast broadband is rolled out.

2.32 On 4 July 2011 it was announced on the DCLG website (Department for Communities and Local Government) that for the final tent enterprise zone spots, there are 29 proposals competing for a place. Again the announcement re-iterated the simplified planning rules that would be a component of an enterprise zone. The announcement states:

When selecting the winners for the second wave, the Government will look at carefully the choice of site, which should have little or no existing businesses there already. Enterprise Zones should not be merely displacing economic activity from one part of the local enterprise partnership to another and the Government will also look at the targeting of sectors.*

(*My emphasis)

2.33 The Coast to Capital is one of the Local Enterprise Partnerships (LEP) competing for one of the final 10 enterprise designations, which is the justification behind the reason for refusal. As the above indicates, there is only a one in three chance of the Coast to Capital gaining enterprise zone status, and their website refers to the specific areas in Bognor Regis which would form part of the enterprise zone:

- Oldlands Farm
- The Salt Box
- The former LEC airfield

2.34 The website elaborates that these areas have the potential for a possible 7,500 new jobs. Proposals include an advanced manufacturing park, a knowledge park for high quality office development, a small business campus, a university hub and a leisure park and watersports centre, as well as a retail and leisure hub.

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2.35 Upon a request from the Council as to the relevance of an enterprise zone designation and the impact it would have upon the application site, the Assistant Director of Planning Services and Housing Strategy, Karl Roberts, could not provide a copy of the document as it is still to be supplied by Coast to Capital.

2.36 Mr Roberts did however confirm the following:

'The actual bid area for the EZ has shrunk to focus on 'greenfield sites'.*

(*My emphasis)

2.37 Having regard to the above, it appears clear that the purpose of the enterprise zone designation in this instance, and with regard to planning, is to create employment opportunities in purpose-built modern facilities that are appropriate to the needs of modern companies. Much of this is facilitated by a relaxation of planning policy to allow development to occur in areas where there may have been a policy presumption against, with minimal control by the Local Planning Authority. The designation would not prejudice the change of use of a dilapidated building that is impractical for modern business needs. If anything, it would endorse the change of use when so much purpose-built business accommodation is to be provided in the nearby area.

2.38 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004,

'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'.

2.39 With the small chance of the Coast to Capital obtaining enterprise zone status, the fact that the sites in Bognor which would form part of it do not include the application site and also that one of the purposes of the zones is to relax planning control rather than enhance it, the potential designation is not material to the determination of this application.

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3.0 ASSESSMENT

- 3.1 Outline planning permission was refused under reference BR/381/07 for demolition of the existing building and erection of 14 flats – eight one-bedroom and six two-bedroom units. The reasons for refusal were as follows:

REASON 1:

The proposal will mean the loss of an existing important employment site. There is a need for further employment provision within the area and the loss of existing floorspace would require further allocations elsewhere. No evidence has been produced that the site has been marketed for business purposes and that the site is redundant for these purposes. The proposal is therefore contrary to policy NE5 of the West Sussex Structure Plan.

REASON 2:

From the information available the Local Planning Authority is not satisfied that the existing foul water sewerage and surface water drainage system is adequate to serve the development proposed. The proposal is, therefore, contrary to policy DEV3 of the West Sussex Structure Plan and policy GEN 9 of the Arun District Local Plan.

REASON 3:

The development proposed generates a need for public infrastructure in the form of library and fire service contributions which cannot currently be met in the locality. No contribution has been provided as part of the application.

The development therefore conflicts with Policy DEV3 of the West Sussex Structure Plan and Policy GEN8 of the Arun District Local Plan.

3.2 APPEAL

- 3.3 The application was subsequently subject to an appeal hearing, prior to which the Council withdrew the second reason for refusal relating to drainage whilst at the hearing a unilateral undertaking was provided to satisfy the infrastructure requirement. The issues remaining therefore were:

- a) The **development's** effect on the supply of land and premises for employment use; and

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- b) Whether the site is suitable for the development, bearing in mind the flooding characteristics of the locality.
- 3.4 With regard to the issue of employment land, it was agreed that there was a shortfall in respect of Arun District's employment floorspace requirement of 240,000 m² set down by policy NE1 of the Structure Plan, and a further report by Atkins suggests that the figure should be increased. However the study has not been incorporated into the development plan policies and its methodology not tested at examination. Regardless, the inspector was of the view that the shortfall did not preclude the re-development of existing sites for other uses. More importantly the relevant Structure Plan policy test was held within NE5, which would not allow the loss of existing employment land *'where they are important in maintaining the supply of premises and jobs in an area and minimising the development of greenfield sites'*
- 3.5 The Inspector went on to conclude that there was no evidence to show that re-use of the site was either practical or likely, with no offers of use coming forward. The site therefore does not play an important role in terms of policy NE5.
- 3.6 It was not clear that the re-development to other business uses was either practical or likely.
- 3.7 Even if re-development were financially viable, the **appellant's** survey evidence, agreed by the Council, demonstrated that there was no shortage of premises, either in the district as a whole or in Bognor Regis in particular, of a comparable size to that which could be accommodated on the site.
- 3.8 There are a number of vacant units on the Durban Road industrial estate.
- 3.9 The factors together demonstrate that the appeal site is not required to meet an existing demand for premises – even if it could be re-developed in a cost-effective manner. The Inspector further elaborates:
- 'I have seen no substantive evidence to support the Council's assessment that the site's re-development for housing would contribute to a decline in local employment. To my mind, the site does not play an important role in maintaining the supply of premises and jobs, in the terms set by SP of policy NE5.'*

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3.10 In paragraph 12 the Inspector also endorses the re-development of the site for housing:

'I consider that, in principle, the erection of housing on a presently under-used site within the urban area would achieve wider sustainability benefits. I therefore agree with the appellant that the scheme meets the exception test set out in PPS 25'

3.11 The Inspector's view is a significant material consideration in the determination of any subsequent application, including this one.

3.12 The Inspector did however dismiss the application on the grounds of flooding alone, specifically on the sequential test. This is despite the Council not being able to demonstrate a five-year supply of land.

RE-SUBMISSION

3.13 Outline planning application BR/341/10/ for 14 units was submitted to the Council, and in light of the appeal decision was accompanied with a full sequential test and agreement from the Environment Agency that the application was acceptable. The Inspector had already endorsed the fact that the change of use would not result in any impact upon employment opportunities in the Borough.

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3.14 The application received a very positive recommendation from the Council planning officers, both in terms of more efficient use of land, the character of the locality, including that the site is ‘**somewhat divorced from the industrial estate**’.

3.15 With regard to employment, the officer report acknowledges that two appeal decisions have not supported the Council in its resistance of re-development of derelict commercial sites and also admits that additional work on the evidence base concerning the supply and demand for industrial premises/floorspace has not been translated into a Council policy. The current **Government’s** view on change of use to residential is also acknowledged in the report and on this basis a recommendation for approval was provided.

3.16 The Council however refused the application for the following reasons:

REASON 1

The proposal, if permitted, would result in a loss of a significant employment site on a serviced industrial estate and the proposal and its potential impact on adjacent industrial users would be premature pending a conclusion to the Council’s proposals for this area to be part of an Enterprise Zone.

REASON 2

The proposal would result in a high density and cramped form of development resulting in limited amenity space which would be detrimental to the living conditions of the occupiers of the flats, being 8 no. 2 bed flats and 6 no. 1 bed flats. The proposal would be detrimental to Policy GEN7 of the Arun District Local Plan and PPS3 (as revised 2010), Ministerial Statement of 9th June 2010 and PPS1.

3.17 It is regrettable that Reason 1 runs contrary to the view of its officers, the appeal history, the history of development at nearby Unit 0 and also all the recent guidance issued by central Government referred to in the previous section. These are all relevant and significant material considerations in addition to the Local Planning Authority’s Local Plan.

3.18 Instead the Council has referenced the slight possibility that an enterprise zone designation, which endorses the relaxation of planning control, as justification to refuse the application. With the information and analysis provided in previous sections, this lies contrary to Section 38(6) of the Planning and Compulsory Purchase Act 2004; it is not in accordance with the development plan and the enterprise zone designation does not constitute a material consideration to indicate otherwise.

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- 3.19 The outcome of the most recent appeal decision not only found the loss of employment to be a flawed reason to refuse the application, costs were also awarded against the Council for its unreasonable behaviour.
- 3.20 Reason 2 refers to national planning policies, which still endorse the efficient use of land despite the Ministerial Statement of 9 June 2010. The Local Plan still endorses a minimum density of 30 dwellings per hectare and previous applications have not referenced similar sized schemes as constituting cramped development.

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4.0 EVALUATION

4.1 Despite the removal of minimum national indicative densities the Local Plan still indicates a minimum density of 30 dwellings per hectare is required.

4.2 The South East Plan provides an ambitious house-building target for the Arun District.

4.3 National policies endorse the efficient use of previously developed land, which the site falls within.

4.4 The removal of gardens from the definition of previously developed land places an increased importance for sites such as the subject of this application in delivering new housing.

4.5 The Government is actively encouraging the use of redundant business premises for residential purposes.

4.6 The change of use of the application site to residential would not impact upon local employment opportunities, as endorsed by the Planning Inspectorate and Arun District planning officers.

4.7 There is no objection to development on the grounds of flooding or the sequential test.

4.8 The enterprise zone designation never occurred and an inspector has yet again found the issue of loss of employment to be a flawed reason to refuse the application.

4.9 The existing building on the site is un-attractive, dilapidated, outside of the industrial estate and represents a site un-economical to develop for business uses.

4.10 There is no objection to the layout or access from the Council or Planning Inspectorate with regard to application reference BR/381/07.

4.11 The above provides clear guidance as to the opportunities and constraints of the application site.

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5.0 DESIGN

- 5.1 The Council continues to find fault with proposals for development on this site despite the best attempts by the applicants to appease them, and the Council has yet to accept the principle of residential development despite all the appeal decisions finding in favour of this aspect.
- 5.2 On this basis the only option left to the applicants to avoid un-necessary delay is for this outline application with all matters reserved. This approach allows the Council to accept the use for residential and for the applicants to then work with officers to provide an attractive building with high design values.

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6.0 CONCLUSION

- 6.1 The proposal conforms with central Government Guidance and Development Plan policies and with recent publications from Central Government, which provides increased emphasis to view this planning application favourably.
- 6.2 Re-development of the site is not only logical due to its dilapidated and un-wanted state; from an urban design perspective residential development on this corner location would fit in well with the existing grain of development along Ash Grove and improve the local character.
- 6.3 Amenity space can be provided in abundance on this scheme.
- 6.4 A suitable design may be achieved for the proposal.