

## REPORT UPDATE

Application No: BR/67/25/PL

### Reason for the Update / Changes

Reason for Update/Changes:

A revised drainage statement was submitted by the applicant on the 8th December. This has not been checked by the ADC Drainage Engineers.

**Notes: Changes to recommendations, conditions and / or reasons for refusal will always be reflected in the recommendation section of the attached Officer's Report.**

### Recommendation Report for Planning Permission

REF NO: BR/67/25/PL

LOCATION: 57 Queensway  
Bognor Regis  
PO21 1QN

PROPOSAL: Demolition of existing brick-built garages, removal of canopy structure, remediation of contaminated land and construction of 18 No. flats over 3 storeys with pitched roofs. This application is in CIL Zone 4 (Zero Rated) as flats.

#### SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application proposes to demolish structures and construct a three-storey building consisting of 18 one bed flats with 4 parking spaces to the rear and a cycle and bin store.
TOPOGRAPHY	Predominantly flat.
TREES	None on site.
BOUNDARY TREATMENT	Post and rail fence to the east and south of around 0.5m in height. There are screens to the east and west as part of the car wash.
SITE CHARACTERISTICS	Brick building serving as a garage for cars with a detached canopy structure. The site is a hand car wash.
CHARACTER OF LOCALITY	Mixed use with residential and commercial uses in close proximity to the site.

#### REPRESENTATIONS

Bognor Regis Town Council - Support.

- Viability assessment should be reviewed to determine if a reduced amount of affordable housing can be achieved.
- Would like to see the development offset with an improved lighting scheme in the alleyway behind the

site from Queensway to Bedford Street to reduce the level of antisocial behaviour associated with this location and to improve perceptions of safety.

No representations received from nearby occupiers.

**COMMENTS ON REPRESENTATIONS RECEIVED:**

Comments noted and addressed in the conclusions.

<b>CONSULTATIONS</b>
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**CONSULTATION RESPONSES RECEIVED:**

Economic Development - No objection.

ADC Ecology - No objection subject to conditions for biodiversity enhancements.

Natural England - Further information required to determine impacts on designated sites. The Local Planning Authority has measures in place to manage potential impacts through a strategic solution which Natural England considers will be effective in preventing adverse impacts on the integrity of the site(s).

ADC Private Sector Housing - No objection. Appropriate fire detection should be installed and fire compartmentation/separation implemented.

WSCC Education - Objection. Secondary Education transport contributions are required.

WSCC Highways - No objection subject to conditions for parking, cycle spaces, and visibility splays.

ADC Environmental Health - No objection subject to conditions for a construction management plan and contamination.

WSCC S106 - Contributions requested for education, transport, libraries and fire and rescue.

WSCC Lead Local Flood Authority - No objection subject to conditions for surface water design.

Arun District Council Greenspace - No objection subject to an off-site financial mitigation.

Southern Water - Requests formal notification of any demolition works prior to such works being undertaken.

ADC Drainage - Objection. No evidence has been provided to demonstrate infiltration is not viable on site and that it should not be prioritised in accordance with the hierarchy for SuDS. If infiltration is viable there is a signification proportion of site where it may be used. The National Standards for SuDS (NSfS) is clear that the use of higher priority final destinations shall not be discounted because the site is, or was, contaminated where practical remediation strategies can be developed in conjunction with the drainage system design. This cannot be appropriately resolved through imposition of conditions.

Further comments were received following the receipt of additional information but Engineers maintain their objection. The groundwater monitoring provided shows groundwater levels at 1.07m below ground level (bgl) in November 2022. This is unlikely to be the highest potential groundwater level due to the time of year. On this basis, infiltration features are not able to meet design standards and are not viable

in this location.

## COMMENTS ON CONSULTATION RESPONSES:

Comments noted and discussed below.

### POLICY CONTEXT

Built-up Area Boundary.  
Prone to Groundwater Flooding.  
Pagham Harbour Zone B.  
Article 4.  
Economic Growth Area.  
CIL Zone 4.

## DEVELOPMENT PLAN POLICIES

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

DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
OSRDM1	Protection open space, outdoor sport, comm, rec facilities
AHSP2	AH SP2 Affordable Housing
WMDM1	WM DM1 Waste Management
ENVDM2	ENV DM2 Pagham Harbour
SDSP1	SD SP1 Sustainable Development
ENVDM5	ENV DM5 Development and biodiversity
QEDM4	QE DM4 Contaminated Land
SDSP2	SD SP2 Built-up Area Boundary
TSP1	T SP1 Transport and Development
INFSP1	INF SP1 Infrastructure provision and implementation
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems
DSP1	D SP1 Design

[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:

SPD11	Arun Parking Standards 2020
SPD13	Arun District Design Guide (SPD) January 2021

### POLICY COMMENTARY

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

#### **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 conflicts with relevant Development Plan policies in that it has not demonstrated how the site would be drained and would not increase flood risk elsewhere. Infrastructure contributions have also not been secured.

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

- (2) in dealing with an application for planning permission the authority shall have regard to -
- (a) the provisions of the development plan, so far as material to the application,
  - (aza) a post examination draft neighbourhood development plan, so far as material to the application,
  - (b) any local finance considerations, so far as material to the application, and
  - (c) any other material considerations.

#### **OTHER MATERIAL CONSIDERATIONS**

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

#### **BIODIVERSITY NET GAIN**

This application is not liable for mandatory BNG as it is below the de minimis threshold.

#### **CONCLUSIONS**

##### **PRINCIPLE**

The site is in the built-up area boundary (ALP policy SD SP2) in a sustainable location where the principle of development is acceptable provided it accords with other policies of the Local Plan covering such issues visual/residential amenity, highway safety, parking, and drainage.

ALP policy SD SP1 of the Arun Local Plan (ALP) advocates that the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

The NPPF gives a presumption in favour of sustainable development (paragraph 11), generally seeks to promote the effective use of all land (para 129) and para 125 give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, proposals for which should be approved unless substantial harm would be caused. Paragraph 11(c) states that development proposals that accord with an up-to-date development plan should be approved without delay. 11(c) is relevant in this case as the proposal falls within the Built-Up Area Boundary and will be determined under an active adopted Local Plan.

Bognor Regis has a made Neighbourhood Plan (BRNDP) with policies 8a and 8b of relevance. This relates to the design of major development and the need for a transport assessment to ensure the development does not impact on parking.

#### DESIGN AND VISUAL AMENITY

The site is on the corner of Crescent Road and Queensway and is used as a hand car wash business with a brick-built building and canopy and tarmac surface.

The building proposed is three storeys in height, in essentially 6 blocks. The roof will be pitched with gable additions to the western elevation which will serve as enclosed balconies. The design provides some interest to this elevation and takes cues from development on Crescent Road which has similar design features. The building has a stepped frontage which attempts to follow the curve of Crescent Road and terraces opposite. The design helps to reduce the massing of the building on the corner in which it's located.

The rear elevation is simpler and features a number of windows. There are 4 parking spaces to the rear, along with a bike and bin store. Planting will help to soften the visual appearance in an area with little greenery. The bike store will be modest in height and feature timber cladding.

The area is mixed in design and scale with properties on Crescent Road of two/three storey and flatted accommodation of five storeys and higher to the west. The scale is acceptable and whilst larger than the immediate neighbours at Crescent Road, the development is not of a scale that is excessive or out of character in the vicinity.

The site is set back from the highway retaining approximately 7.8m to the southern corner at Queensway, ensuring the building does not appear unduly dominant. Hedging and soft landscaping is proposed which will run along the boundaries adjacent to the highway and again help to soften its appearance on the wider area and introduce some greenery to the site which is all hardstanding.

Section R of the Arun Design Guide (ADG) relates to apartment buildings and states: 'Provide flatted developments which integrate well with and respond sensitively to their setting'. It states, 'their scale and appearance is in keeping with the existing context in the area'. This can be achieved by 'breaking down the design of buildings into a series of components, which will reduce perceived bulk and massing'. The proposal complies with the ADG, with the massing reduced through the use of staggered design and balconies.

The area features a variety of materials. This development proposes a red brick with a slate roof. This does not appear out of character and is acceptable. Specific details of the brick material would be secured via condition.

Policy 8A of the BRNDP states major developments shall demonstrate excellence in design, particularly designs that will help establish a strong sense of place and create attractive and comfortable places to live, work and visit. This can be achieved through using planting for highway boundaries, using good quality materials that complement the existing palette. The proposal complies with this policy; the design is attractive and incorporates boundary planting and appropriate materials.

The development appears appropriate in scale and design and does not result in adverse harm upon the character and appearance of the area in accordance with ALP policies D DM1 and D SP1 and the ADG and the BRNDP.

#### RESIDENTIAL AMENITY

The development would replace a single storey car wash and will result in additional bulk on the site. The

nearest neighbour is to the north at 27 Crescent Road. This is a two-storey dwelling and its garden/parking area is to the side of the property, to the southwest. There is little separation between the site and neighbouring boundary.

The neighbouring property has two first floor and two ground floor windows which face southwest towards the site. The proposal would likely give rise to some overbearing and overshadowing upon this property as a result of its siting and due to the increase in height of the development which exceeds that of the neighbouring dwelling. This is unlikely to be significant with around 16m separation between the development and the side elevation of No.27.

The principal elevation of the development fronts Crescent Road to the north/northwest. The development will have balconies to this elevation. This would give rise to views not currently achievable. Due to the position of the site, it would not result in adverse overlooking on neighbours, with the relationship and views achieved similar to that of existing properties. A minimum of 20m is retained between the front facing properties which exceed the recommended front to front separation of 16m in the ADG.

Richmond House sits to the rear (east) of the site and has commercial properties to the ground floor and four storeys of residential above. There are garages to the rear of this building, and this is accessed along the rear of the development. The development would not give rise to demonstrable harm on this elevation, nor give rise to adverse views on amenity with no windows to the side elevation of the Richmond House. There is an access for a multi storey car park to this elevation, and this may give rise to noise to the new flats by way of comings and goings. Environmental Health requested a condition which should detail how the dwellings will be protected from noise.

The proposal would not result in significant harm on neighbouring amenity and accords with ALP policy D DM1 and the ADG.

#### SPACE STANDARDS

ALP policy D DM2 requires residential developments to meet the internal space standards set out in the Governments Technical Housing Standards (Nationally Described Space Standard NDSS). The supporting text of policy D DM2 requires external space to accord with the guidelines set out in the ADG. The 1-bedroom flats provide 40sqm in compliance with national space standards.

Policy H.04 of the ADG advises that outdoor amenity spaces should be of an appropriate size and shape and be usable and enjoyable. The ADG states: 'Communal residential spaces (common in flatted developments) provide an element of amenity to complement lower levels of private outdoor space.' and 'Residential Communal Shared Spaces should deliver a minimum 40sqm plus 10sqm for each unit'. The proposal should provide 220sqm of amenity space. The scheme does not comply with this although each flat is provided with a private balcony which measures 5sqm. The ADG specifies that balconies should be at least 3sqm and the proposal complies with this. The ground floor units have some garden space to the north of the site, separated via hedging and is positive.

There is some amenity space to the southern corner although its usability is limited due to the siting on a busy corner. Whilst the development is short of communal amenity space, this is acceptable due to its town centre location. The site is in close proximity to Hotham Gardens which is around a 100m walk to the south and 300m to The Esplanade. Future residents would have easy access to alternative areas of green space.

The proposal would not fully comply with the ADG on outdoor space. Given the town centre location and that future residents can access alternative areas of open space in close proximity, the lack of amenity space is acceptable, and the proposal complies with ALP policy D DM2.

## **OPEN SPACE, PLAY AND LANDSCAPING**

ALP policy D DM1 requires developments to incorporate new tree planting and to improve on character through landscaping. Policy OSR DM1 relates to open space, sport, and recreation in new developments.

The site is hardstanding with no greenery, and the plans demonstrate that hedging and soft landscaping will be planted along the boundaries. This helps to separate the site and the highway and would provide an enhancement to its appearance. ADC's Parks and Landscape Officer has no objection subject to submission of a full landscaping scheme. This would detail the position, species, and size of the vegetation at the time of planting.

Due to the number of units, the site is required to provide open space and play space as per the ADC Open Space, Playing Pitches, Indoor and Built facilities SPD. There is insufficient space to provide on-site provision for open space and play facilities, and as the site is not CIL liable, it is required that this be delivered off-site secured via S106 contributions to mitigate for the additional demand created. There is also a need for off-site contributions for sports and leisure facilities as per the Sports England Playing Pitch Calculator.

Subject to the contributions being secured in a S106, the proposal would provide suitable open space and other provisions which would enhance the site appearance and provide infrastructure in accordance with ALP policies D DM1 and OSR DM1.

## **AFFORDABLE HOUSING**

ALP policy AH SP2 states developments over 11 residential units require a minimum provision of 30% affordable housing on site. The development is required to provide 6 units of affordable housing (5 x rented and 1 x shared ownership).

The application does not include any provision for affordable housing and states that the scheme would not be viable if this was required. A viability assessment was provided by the applicant which was subject to an independent review on behalf of the council. The assessment includes a brief commentary and does not include any supporting evidence for the appraisal inputs used, therefore assumptions based on previous knowledge have been used where the submitted inputs have not been stated. It assumes an 18-month build programme and build costs have been updated to reflect current BCIS median rate. Sales values locally have been reviewed which indicate that if the dwellings were sold on the open market the value would most likely be lower than assumed in the submitted appraisal.

When viewing the viability position as a whole, the schemes viability appears marginal. The conclusion, on weighing up the assumptions and sensitivities, is that on balance there is not sufficient scope to support affordable housing. There are other S106 obligation costs necessary to make the scheme acceptable in planning terms, and these would need to be supported regardless of the viability specifics. The site is contaminated land and this adds additional cost to the development which have been included in the viability assessment. The applicant's figures, as presented, suggest there is scope to cover these obligations - if a nil affordable housing provision is assumed. The Council's independent viability report concluded that, on balance, there is not sufficient scope to support affordable housing.

With sufficient evidence to support the position that the scheme is unviable if it was required to provide affordable housing, no affordable units are provided, and this is acceptable in line with ALP policy AH SP2.

## **BIODIVERSITY**

The proposal is exempt from mandatory biodiversity net gain as the development is below a de minimis

threshold, consisting solely of hardstanding area however the development would still need to provide a net gain in compliance with ALP policy ENV DM5.

The application does not specify the biodiversity enhancements that will be delivered on site. The Councils Ecologist confirms that nest boxes will not be feasible as the trees to be planted on site will be too small to accommodate these. 6 integral swift bricks to the front of the flats and 6 bat tubes or bricks to the rear of the flats are recommended.

Subject to conditions securing the enhancements, the development will provide a biodiversity gain in accordance with ALP policy ENV DM5.

#### **HIGHWAYS/PARKING**

ALP policy T SP1 states development should be designed to reduce the need to travel by car by identifying opportunities to improve access to public transport services, whilst making provision for safe access to the highway network and incorporates appropriate levels of parking. BRNDP Policy 8b requires major development to demonstrate through a transport assessment and travel plan they do not impact on existing capacity of public highways to accommodate parking. Para 116 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe taking into account all reasonable future scenarios'.

The site is on a corner and an existing vehicular access point to the rear (east) of the site will be utilised to facilitate access to the car parking area.

Arun Parking Standards SPD (Jan 2020) states residential properties in this location (Parking Zone 4) should provide 1 car parking space for each 1 bed unit. Visitor spaces are required at 20% of the new of residential units. A total of 18 car parking spaces, with an additional 4 for visitor parking, would be required to comply with the guidance. The proposal provides only 4 parking spaces - a shortfall of 18 spaces. Any overspill parking would have to be accommodated on-street or in nearby paid-for provision and there is a large car park opposite the site.

Whilst the site is in a highly sustainable location and is in walking distance to the High Street and Railway Station, as provision is significantly short of requirements a parking survey is required to demonstrate the impact this would have on the wider area. The parking survey was undertaken by the applicant using the Lambeth Methodology to evaluate the parking demand/availability in the local area. The survey was conducted over two nights in January 2025 and surveyed 342 on-street, car parking spaces within 200m of the site. The survey found occupation rates to be 51% - 52% within 200m of the site, which suggests there is capacity for overspill parking to be accommodated on-street. Whilst the development does not comply with the SPD, the parking survey supports that the shortfall is acceptable with sufficient spaces available surrounding the site to accommodate vehicles from the development.

WSSC Highways do not object and do not consider the development would have an unacceptable impact on the highway. There are currently two accesses on site, and an existing dropped kerb is proposed to be closed off. WSSC note there is a benefit to the kerb line being reinstated.

The Design and Access statement specifies that of the 4 parking spaces, one of them will be a disabled parking bay. Two of the spaces will have EV charging points. Cycle storage should be provided to encourage sustainable transport methods and should be undercover, secure, and easily accessible to occupants. The plans show a covered cycle storage area to the rear, and this is acceptable. This is a two-tier bike storage and provides for 18 bikes.

Whilst the proposal does not provide the recommended parking provision, the shortfall is capable of being accommodated in the nearby area and the site is in close proximity to sustainable transport

methods and provides bike storage for all occupiers, in compliance with ALP policy T SP1 and policy 8b of the BRNDP.

#### CONTAMINATION

ALP policy QE DM4 states the Council will require evidence to show that unacceptable risk from contamination will be successfully addressed through remediation without undue environmental impact during and following the development.

The site was a former garage/petrol station and there are 5 presumed underground petrol storage tanks that were decommissioned and infilled with concrete in 1999. To this date, it is presumed these are in situ and will need to be removed to ensure no potential contamination.

A remediation and strategy plan has been provided to demonstrate how the tanks should be removed and how potential contamination in the soils and groundwater will be dealt with prior and following the development. Environmental Health have requested a condition to address contamination on site.

The development will help to remove existing contaminants in the ground and provides a strategy of how contamination is intended to be dealt with, in accordance with ALP policy QE DM4.

#### FLOOD RISK/DRAINAGE

Arun Local Plan policy W DM2 seeks to limit development in areas at risk of flooding and W DM3 requires all development identify opportunities to incorporate a range of Sustainable Urban Drainage Systems (SUDS), appropriate to the size of development, at an early stage of the design process.

The site is in Flood Zone 1 (low probability of river or sea flooding). Arun Mapping shows that more than 75% of the surrounding 1km grid square is prone to groundwater flooding, therefore this may have an implication for drainage. A Flood Risk Assessment has been provided which states that ground floor level will be 7m Above Ordnance Datum (AOD), which is 150 mm above adjacent external ground levels.

With regards to surface water drainage, the site is a fully paved brownfield site with no existing SuDS or attenuation. The drainage strategy proposes that given the spatial constraints of the site, a soakaway is not feasible as it would not meet the 5m minimum clearance from a building. The drainage strategy seeks to discharge to the public surface water sewer at a controlled rate limited to providing a 60% betterment of existing brownfield rates, with below ground attenuation. Permeable paving is proposed for the external hardstanding, allowing the first 5mm of rainfall to infiltrate and evaporate on-site, and rainwater butts will be connected to the roof drainage, providing rainwater harvesting for landscape irrigation located to the gardens to the northwest ground floor units.

The Lead Local Flood Authority (LLFA) have no objection subject to conditions. ADC Drainage Engineers provided an objection as no evidence of groundwater monitoring had been provided and the National Standards for Sustainable Drainage Systems (NSfS) make it clear that to utilise a lesser priority final destination, appropriate evidence shall be provided that demonstrates all higher priority final destinations have been used to the maximum extent practicable.

Following this, the applicant provided a geo-environmental assessment that included results of groundwater monitoring that took place on the site in November 2022. Additional comments were received from the ADC Drainage Engineers however they maintained an objection. The groundwater monitoring showed groundwater levels at 1.07m below ground level in November 2022. This is unlikely to be the highest potential groundwater level due to the time of year. On this basis, this confirmed that infiltration features are not able to meet design standards and is not viable in this location. Infiltration is shown on the current construction details from the base of the permeable paving, however, following the groundwater results, this would not meet a requirement to retain 1m vertical distance from the base of

the infiltration feature to groundwater and is not acceptable.

The proposed method to discharge to the public surface water sewer beneath Queensway is acceptable in principle subject to confirmation of capacity. However, there are numerous aspects that remain outstanding such as insufficient evidence to justify the lack of interception drainage provided. This is critical to the conceptual design and determining the scale and layout of the development. The peak runoff is also not sufficient and areas marked as permeable should be calculated within the impermeable areas. As the calculations require updating, this is likely to affect the flow rate and storage volumes required on site.

The drainage layout does not currently include sufficient proposed levels of information to demonstrate that the design is feasible to deal with surface water on the site and as a result it is not currently something that could be conditioned as it may result in a development becoming unimplementable if the drainage cannot be discharged.

The application has not demonstrated that it can be adequately drained. As a result, the proposal has not identified that it could be constructed without increasing flood risk elsewhere and is in contradiction to ALP policies W DM2 and W DM3 and the NPPF.

#### **FOUL DRAINAGE**

ALP policy W DM1 states all major developments must demonstrate that adequate drainage capacity exists or can be provided as part of the development. Where adequate capacity does not exist, there will be a requirement that facilities are adequately upgraded prior to the completion and occupation of development. Policy W DM1 states that a drainage impact assessment is required for all major development.

Southern Water require a formal application for a connection to the public foul sewer to be made by the applicant or developer and have recommended a condition to secure this. Further details could be secured via condition in the event of an approval to ensure that the development would accord with ALP policy W DM1.

#### **PAGHAM HARBOUR**

The site falls in 5km of Pagham Harbour which is designated as a Special Protection Area and Ramsar site. ALP policy ENV DM2 requires any proposals for new residential development within the Pagham Harbour buffer zone (0 to 5km) to pay a contribution of £962 per new unit to contribute towards strategic access management measures.

The site lies in Zone B and the proposal results in a net increase of 18 dwellings which would require a contribution of £17,298 to mitigate the harm that may be caused. ADC are required by planning law to carry out an Appropriate Assessment (AA) to assess the impact of increased recreational disturbance arising from the proposal on the Pagham Harbour Special Protection Area (SPA) and Ramsar Site. However, in this case, it is not required as the application is being refused.

The application has been accompanied by a draft S106 Agreement. Subject to securing the necessary contribution through the S106 agreement, there would have been no conflict with ALP policy ENV DM2. However, as the application is to be refused, the S106 was not completed and the requirements of ALP policy ENV DM2 have not been met.

#### **WASTE MANAGEMENT**

Policy WM DM1 states new development should ensure that kerbside collection is possible for municipal waste vehicles and where appropriate, communal recycling bins and safe bin storage areas are available to residents of flats. Bin storage is provided to the rear of the and is contained in a purpose-built timber

structure. This is in close proximity to the access to enable kerbside collection. This is acceptable and complies with ALP policy WD DM1.

#### S106 CONTRIBUTIONS

ALP Policy INF SP1 requires development proposals provide or contribute towards the infrastructure and services needed to support development to meet the needs of future occupiers and existing community. As the site falls in Zone 4 of the CIL charging zone and is rated as flats, it is not liable for CIL. Contributions are secured by a S106. WSCC and ADC Parks and Landscaping have requested contributions for:

WSCC Secondary education - £38,613

WSCC Secondary school transport contributions - £21,333

Libraries - £4,648

Fire and Rescue - £445

Off-site play space - £31,145.40

Off-site open space- £35,481.60

Advice is awaited from Greenspace Officers with regards to the additional contributions required for built leisure, health and fitness, and playing pitches. Should this be received prior to the Committee then this will be reported by an update. However, these other contributions will be required to be included irrespective of whether the advice is received prior to the Meeting or not.

A position statement has been agreed by ADC and West Sussex County Council regarding developer contributions towards secondary education in the district together with supplementary transport obligations. This details the calculation used to estimate the numbers of additional secondary school age children coming from development. This calculation includes 1 bed flats and as such a request from WSCC for an education transport contribution can be secured by the S106. This meets the CIL tests (Regulation 122 of the Community Infrastructure Levy Regulations 2010, as amended) and the applicant has not raised any objection to this being included in a S106 agreement.

Once these S106 contributions have been taken into account as per the policy, this renders affordable housing unviable as discussed above. Due to the significant need for affordable housing in the district, there may be a possibility for contributions to be re-directed from open space/leisure to affordable housing, however as the application is recommended for refusal this hasn't taken place.

The proposal generates no conflict with ALP policy INF SP1 in terms of infrastructure subject to a Section 106 agreement in terms of the provision for the school travel and off-site play and open space. As the application is being refused and no S106 is in place there is conflict with the policy.

#### SUMMARY

The development falls within the BUAB where the principle of development is acceptable subject to compliance with relevant policies. The proposal is compliant with policy in matters surrounding design and character, residential amenity, transport and parking and biodiversity. The proposal does conflict with drainage policy due to the lack of sufficient surface water drainage evidence and details and it cannot be concluded that surface water from the proposal can be adequately drained in a policy compliant way and not increase flood risk elsewhere in conflict with policy W DM3 and the relevant paras of the NPPF.

Notwithstanding paragraph 11 of the NPPF, the proposal is not in conflict with policies that seek to control the location of development or those that seek to deliver housing. In this instance, the policies of particular importance to the determination of the application, policy W DM3, is not considered out of date.

Paragraphs 181 and 182, state that flood risk should not be increased elsewhere as a result of development. The impact from flooding may affect not only (newly introduced) occupants at ground floor level but areas further afield, such that the increased risk of flooding is given substantial weight.

Further, infrastructure and Pagham Harbour contributions are not provided through a S106 agreement.

Overall, the moderate benefits arising from the dwellings towards addressing the housing land supply shortfall and the substantial weight to the value of using suitable brownfield land within settlements for homes from para 125c of the NPPF, are outweighed by the significantly demonstrable negative impact as discussed above. The application is therefore recommended for refusal.

### **HUMAN RIGHTS ACT**

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

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

### **DUTY UNDER THE EQUALITIES ACT 2010**

Duty under the Equalities Act 2010

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

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

### **SECTION 106 DETAILS**

Were this application to be approved then it would be granted subject to a s106 legal agreement to secure the following obligations:

WSCC SECONDARY EDUCATION - £38,613

WSCC SECONDARY SCHOOL TRANSPORT CONTRIBUTIONS- £21,333

LIBRARIES- £4,648

FIRE AND RESCUE - £445

OFF SITE PLAY SPACE- £31,145.40

OFF SITE OPEN SPACE- £35,481.60

PAGHAM HARBOUR ACCESS MANAGEMENT CONTRIBUTION - £17,298

Additional contributions would also be secured towards built leisure, health and fitness, and playing pitches.

**CIL DETAILS**

The application is not CIL liable as it is for flats in a town centre location.

**RECOMMENDATION**

## REFUSE

- 1 The proposal has not satisfactorily demonstrated that the development can sustainably drain surface water. As such, it has not been proven that the development can be adequately drained and would not increase flood risk elsewhere. This is in conflict with policy W DM2 and W DM3 of the Arun Local Plan and the NPPF.
- 2 In the absence of a signed Section 106 agreement, the development fails to make the required contributions towards local services such as secondary education, libraries and fire and rescue nor mitigate the additional cost of transporting to secondary school pupils to the nearest school and is thereby contrary to policy INF SP1 of the Arun Local Plan and the NPPF.
- 3 In the absence of a signed Section 106 agreement, the development fails to make the required contributions for off-site provision of play, public open space, off-site playing pitches, off-site built sports or other off-site leisure facilities and is thereby contrary to the aims and objectives of policy OSR DM1 of the Arun Local Plan, the NPPF and the Council's supplementary planning document "Open Space, Playing Pitches, Indoor and Built Sports Facilities" (January 2020).
- 4 In absence of a signed Unilateral undertaking, the development fails to make the required financial contribution towards the provision of accessible natural open green spaces to serve the area as mitigation against recreational disturbance to the Pagham Harbour Special Protection Area. On this basis the proposal fails to accord with policy ENV DM2 of the Arun Local Plan.
- 5 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.