Recommendation Report for Planning Permission

REF NO: **BR/72/14/PL**

LOCATION: Land to rear of Holmlea
Town Cross Avenue
Bognor Regis

PROPOSAL: Demolition of existing buildings and redevelopment of the site with 4no. dwellings. Resubmission of BR/41/13

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application is to demolish the existing workshops on the site and construct 2 pairs of semi-detached dwellings consisting of 2x2 bedroom & 2x3 bedroom. All four houses are two storeys in height. 6 car parking spaces are provided along with a single bin store area and separate bike stores. The layout includes a turning area which would allow for refuse & other large vehicles to enter & leave in a forward gear.
SITE AREA	0.1 hectares
RESIDENTIAL DEVELOPMENT DENSITY (NET)	40 dwellings per hectare.
TOPOGRAPHY	Predominantly flat.
TREES	There is a 12m high Eucalyptus just to the north east of the proposed plot 4 and a couple of smaller fruit trees also along this boundary. However, none are affected.
BOUNDARY TREATMENT	The site is surrounded by fencing forming the boundaries of the surrounding houses. Walling to the front of the workshop.
SITE CHARACTERISTICS	The site is located to the rear of Holmlea in Town Cross Avenue. On the site is a large single storey workshop which is painted white with a corrugated roof and roof lights. There are windows on the back and front of the workshop. There is also a smaller building also white and in brick and corrugated metal. To the rear of the site are garages.
CHARACTER OF LOCALITY	The site is surrounded by residential houses of varying styles and ages but all two storeys in height.

RELEVANT SITE HISTORY

BR/41/13/	Demolition of existing buildings and redevelopment of the site with 6 No. two bedroom dwellings	Refused 11-06-2013
BR/9/55	Outline application for use of land for light industry	ApproveConditionally 07-02-1955
BR/9/55/A	Light industrial building	Refused 02-08-1955
BR/9/55/A/a	Light industrial building	ApproveConditionally 12-10-1955
BR/9/55/B	Workshop	ApproveConditionally 25-04-1956
BR/9/55/C	Petroleum Mixture store	Approve 13-11-1956
BR/9/55/D	Application for use of part of Messrs Bognor General Engineers Factory	ApproveConditionally 28-08-1957
BR/9/55/E	5 garages	Approve 17-12-1957
BR/9/55/F	Renewal of Temp Planning Permission to use part of Messrs Bognor Gen Eng Factory as pattern shop	ApproveConditionally 25-08-1960
BR/30/55/H	Application to carry process of anodising	Refused 13-07-1966
BR/496/74	Replacement external wc	Approve 07-08-1974
BR/613/74	Continuance of use & relaxat- ion of Condition No 1 applicat ion BR/9/55 Workshop light engineering Class III	ApproveConditionally 08-01-1975
BR/630/74	EUC for light engineering class III	Refused 16-04-1975

Planning Application Ref BR/41/13/ was refused for the following three reasons:

(1) "The proposal by reason of the layout, siting, plot size and garden size would be unacceptably cramped and is therefore an overdevelopment of the site which is out of character with the surrounding area resulting in an unacceptable living environment for future occupiers. The development would therefore be contrary to policy GEN7 of the Arun District Local Plan and paragraph 17 of the NPPF";

(2) "The siting and orientation of the proposed units would give rise to overlooking of garden areas resulting in an unacceptable perception of loss of privacy which would be contrary to policy GEN7 of the Arun District Local Plan";

(3) "It has not been satisfactorily demonstrated that fire appliance vehicles can turn on the site and so enter and leave the highway in forward gear in the interests of road safety, in conflict with policy GEN7 of the Arun District Local Plan".

REPRESENTATIONS

Representations received:

Bognor Regis Town Council

Bognor Regis Town Council - no objection.

8 letters of objection (including 1 from Arun DC Cllr Oppler) have been received:

1) Location of domestic waste bins next to a garden fence - will these be housed in a shed and with a pitched roof to stop people accessing the garden?
2) Need for Street lighting to illuminate the access road?
3) Vulnerability of Holmlea to damage from cars.
4) Vibration to Holmlea from larger vehicles accessing the site.
5) Conflict with existing resident parking.
6) Speed limit on the access road?
7) Conflict between those accessing the site and those doing maintenance works on Holmlea.
8) Noise from vehicles.
9) Impact of road signs on Holmlea.
10) Width of the access road is only suitable for 1 car - has this been considered?
11) Lack of consultation by the developer.
12) Site Notices posted too late (16/05/14).
13) Loss of privacy to 'Merryfield'. The solution would be to develop the site with bungalows and put in screening at a height to match the factory walls.
14) Site should remain in a single storey commercial use.
15) The industrial use was never intrusive and normal working hours were operated.
16) Loss of privacy to rear gardens of Essex Road.
17) Loss of views of the trees in the graveyard from Essex Road gardens.
18) Impacts on bats using the buildings and/or flying across the site.
19) Bad odours from the bin store affecting use of rear gardens.
20) Garden grabbing from the developer.
21) Need for fences of 2.5m in height along Essex Road boundary to maintain privacy.
22) Houses may be converted in the future to flats or HMO's.
23) Highway safety & congestion.
24) Lack of sufficient parking.
25) Drainage issues.
26) Overdevelopment.
27) Possible impact on the Eucalyptus tree and risk of it falling onto residential properties.
28) Asbestos & Contamination issues from the existing use.
29) No visible site notice in Essex Road.

1 letter of support has been received from a resident of Essex Road. No comments were included.

Comments on Representations received:

As follows:

1) A planning condition could be imposed to require details of the bin enclosure.
2) A planning condition could be imposed to require details of lighting within the site.
3) This is an existing access and the site has an approved B1 industrial use. It is not considered that there is any greater impact/risk to neighbours than from the current use.
4) As 3).
5) WSCC consider there to be sufficient car parking and note the proposal to provide cycle parking also.
6) As 3).
7) As 3).
8) As 3).
9) It is not known what impact a street sign would have on the neighbouring dwelling.
10) As 3). Furthermore, WSCC do not raise any objections.
11) This is not a planning issue.
12) The site notices were posted late (the 15th not the 16th) but the expiry date altered to afford neighbours with the statutory 21 day period.
13) The rear of Mr Lester's house is approximately 20m from the end of his rear garden and the nearest proposed house to Mr Lester's garden is a further 25m to the west. Therefore the proposed first floor windows in the two new dwellings will be at least 25m from the end of Mr Lester's garden and a total of 45m from the rear windows of Mr Lester's house. Furthermore there is a mature Douglas Fir Tree in the rear of Mr Lester's property which would provide additional screening.
14) This is for the market to decide.
15) Comment noted.
16) The only windows which look out northeast across the Essex Road gardens are the two secondary bedroom windows in plots 1 and 2. This is a valid concern and will be incorporated into a refusal reason.
17) There is no right to a view only to light.
18) This is a valid concern. This will be passed on to the agent so that any resubmission or appeal provides a survey.
19) As 1).
20) Should the developer attempt to take any land owned by residents then legal action could be taken but this is not a planning consideration.
21) Aside from the windows mentioned in 16), it is not considered that there will be any direct overlooking. It is also not considered that all of the Essex Road residents would want to look out onto such a fence and a boundary comprising of part 2.5m fences would not be visually acceptable.
22) There is a permitted change of use from a dwelling to a HMO, however, the houses are not laid out in a way that suggests HMO use. Permission would be required to change into flats.
23) WSCC do not raise any objections.
24) WSCC do not raise any objections.
25) Arun DC Drainage Engineers do not raise any objections.
26) This objection was levied at the previous application and the current application proposes a smaller number of dwellings and is therefore a material improvement on the previous.
27) The Arun DC Tree Officer has not raised any objections with regard to that tree.
28) Any removal of asbestos would be dealt with under the health and safety regulations. With regard to contamination, please refer to the Environmental Health comments below.
29) A site notice was posted on the 15th May outside 21 Essex Road.

CONSULTATIONS

Economic Regeneration
Engineering Services Manager
Engineers (Fluvial Flooding)
Environmental Health
Arboriculturist
WSCC Strategic Planning

Consultations responses received:

Arun DC Arboriculturist - No trees within the site but there is a Eucalyptus and Norway Spruce in adjacent gardens. These trees are protected within the existing gardens and have little or no branch overhang. Is satisfied that there is no impact to these trees.

WSCC Highways - As the site accesses onto a residential road with a speed restriction of 30mph, it would be appropriate for the development to be considered alongside Manual for Streets (MfS) guidance. The proposed visibility splays, taken from a setback of 2.4m, extend 43m to a point on the nearside kerb line and this is consistent with MfS guidance. MfS does provide some allowance for occasional on street parking within the visibility splay and it would appear that in this area, where most properties have some sort of off-street parking facility, that there is not an extensive demand for on-street parking particularly during peak movement time.

The proposed car parking provision is within and does not exceed the WSCC Maximum standard. Cycle parking will be provide this should be secure, covered and capable of holding at least one cycle per bedroom of the proposal. The supporting plan demonstrates that large vehicles are able to enter and exit the site in forward gear and although this may require the crossing of the carriageway centre point, such movement would be acceptable given the infrequent nature and low volume of traffic.

The site is located on the edge of an established residential area and local amenities and employment opportunities, although limited, are available within a reasonable walking distance using the existing footway network. Although the site does not benefit from an established local cycle network, the wide roads and low speeds enables cycling to be a viable alternative for shorter journeys. The main roads connecting to Bognor Regis and surrounding areas tend to be busier, appealing more to experienced and confident cyclists. The site is recognised as having a permitted industrial use, although this use has not been active for some time. In considering the change of use the potential vehicle movements from the permitted use is a material consideration.

In light of the scale of the permitted and proposed development, it is not considered that traffic generation would significantly vary between the two. It is not considered that this proposal could be resisted on the basis of traffic generation. If the LPA are minded to approve this application a condition securing car parking, cycle parking and a construction management plan should be included.

Arun DC Environmental Health - Please apply condition ENV 3, 5 and 6 to any approval.

Arun DC Drainage Engineers - The applicant states that surface water will be discharged to soakaway. Please apply standard conditions ENGD2A and ENGD5A.

Arun DC Economic Regeneration - no comments received.

Comments on Consultation responses:

Comments and recommended conditions noted.

POLICY CONTEXT

Designation applicable to site: Within the built up area boundary.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:	DEV17	Affordable Housing
	GEN2	Built-up Area Boundary
	GEN7	The Form of New Development
	GEN9	Foul and Surface Water Drainage
	GEN12	Parking in New Development
Publication Version of the Local Plan - Excluding the Spatial Portrait, Employment, Housing Allocations, Transport, Monitoring and Implementation sections (February 2014):		D DM1 Aspects of Form and Quality D DM2 Internal Space Standards D DM3 External Space Standards D SP1 Design ECC SP2 Energy & Climate Change Mitigation H DM1 Housing Mix H SP2 Affordable Housing SD SP2 Built -Up Area Boundary W DM3 Sustainable Urban Drainage Systems

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework

SUPPLEMENTARY POLICY GUIDANCE

XXX6	Interim Affordable Housing Policy

POLICY COMMENTARY

The above policies combine to describe the criteria against which the application will be assessed particularly with regard to visual and residential amenity.

The Development Plan consists of the Arun District Local Plan 2003.

Paragraph 215 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight. The weight afforded to the policies with Local Plan policies can be assessed according to their level of consistency of the various policies with the National Planning Policy Framework. It should be noted that the NPPF states that weight is given to individual policies and not to the plan as a whole.

NPPF Paragraph 216 confirms that weight can be given to policies in emerging plans following publication. The Council agreed the majority of the Arun Local Plan in February 2014 (Publication Version) and this is a material consideration in the determination of this planning application. The remaining chapters of the Local Plan namely: the Spatial Portrait, Employment & Enterprise, Housing Allocations, Transport, Monitoring and Implementation will be considered for publication at a later meeting of Full Council. Following 'publication' of the Local Plan a formal public consultation, examination and adoption process takes place. The chapters that have been

published will undergo public consultation alongside the remaining chapters when they have been agreed. The weight given to the current published policies can be significant depending:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);
- the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

The policies within this published version of the plan are at an advanced stage as they have been agreed by Full Council for regulation 19 consultation, they have been subject to independent audit and are considered to meet the NPPF and there are no known significant unresolved issues arising from regulation 18 consultation for the published policies.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The statement of representations procedure and statement of fact produced by the Council under regulation 19 explains that the consultation will take place once the remaining chapters / policies have been published.

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 it would have a materially adverse effect on the residential amenities of future residents and would have an adverse impact upon the established character of the surrounding area.

OTHER MATERIAL CONSIDERATIONS

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

CONCLUSIONS

PRINCIPLE, SITE HISTORY & PROPOSAL

The site is within the built up area boundary where development is acceptable in principle subject to normal development control criteria being satisfied such as visual and residential amenity.

The site was last used as boat storage & repairs workshop and was formerly in a light engineering use. Planning permission was previously refused for a redevelopment of the site by 6 dwellings. It is noted that that application was refused solely on character/overdevelopment, overlooking and highway safety grounds. This new application has sought to address those concerns by reducing the number of dwellings from 6 to 4, re-orientating some of the dwellings so as not to have rear

elevations facing Essex Road and by providing a larger turning area. It is considered that the changes go a long way to addressing the previous concerns.

NATIONAL PLANNING POLICY FRAMEWORK

Paragraph 17 has one of its core principles, the need to support sustainable economic development in order to deliver the homes that the country needs. Another principle requires that Local Planning Authorities seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Paragraph 50 states that a wide choice of high quality homes to create sustainable, mixed communities should be encouraged. Paragraph 51 states that local planning authorities should approve applications for a change of use from commercial to residential where there is no strong economic reason why such development would be inappropriate.

It is considered that the proposal is in conflict with paragraph 17 and this will be discussed below. However, unlike the previous application, the issue is not overdevelopment/character but the lack of space afforded for the amenity of future residents. There is also an issue of overlooking of private gardens.

SITING, AMENITY, DESIGN AND CHARACTER

The site is surrounded on all sides by residential development and it is considered that given the distances involved & existing tree screening, the proposed layout ensures that there is no loss of privacy to the windows of neighbouring properties. However, this is not true of some of the Essex Road rear gardens which are directly overlooked by secondary bedroom windows in the north east elevation of plots 1 & 2. It is considered that these windows could be removed to mitigate this issue but in the absence of amended plans, this issue will form part of the refusal

The site is not considered to be visible in the street scene that is unless one is standing right at the entrance to the site. The houses in Essex Road and Town Cross Avenue are Victorian/Edwardian but the houses in Halson Close and Fletcher Way are of a more modern design. The design of the proposed dwellings would be more in character with those houses in Fletcher Way & Halson Close and this is considered to be acceptable. The new dwellings are also two storey and this is also in character with the surrounding built form.

The previous scheme was considered to have very small gardens and some of the dwellings had fronts facing almost directly onto the gardens of properties in Essex Road. It was considered that this represented a form of development that would appear cramped and out of character with the surrounding area. It was also considered that the layout of the development provided a poor level of residential amenity space for the proposed residents, particularly in comparison to the surrounding character of the area.

The previous officer stated that this overdevelopment/character issue could be overcome by reducing the number of units from 6 to say 3. This would result in a layout similar to Halson Close. The applicant has taken this advice on board but has only reduced the scheme by 2 units. However, it is considered that the reduction is an improvement and although there is not sufficient external amenity space (see below), the amount provided is more in character with the plots on Halson Close. As such, it is not considered that the scheme is out of character with the surroundings.

The proposed bin storage area is proposed along the rear boundary with Holmlea and details of this could be conditioned to ensure that the structure mitigated any odours and prevented access to neighbouring gardens. The location is considered to acceptable since it minimises the distance a refuse lorry has to travel into the site.

HIGHWAY CONSIDERATIONS

The layout of the site provides 6 parking spaces and WSCC Highways consider this to be acceptable. The ratio of spaces to dwellings is 1.5 and this is the same ratio as per the previous scheme, which itself was not refused on grounds of insufficient parking. The proposal also now incorporates a satisfactory turning area for larger vehicles and this overcomes the previous Highways related reason for refusal.

INTERNAL & EXTERNAL SPACE STANDARDS (Policies D DM2 & D DM3)

Certain policies within the emerging local plan have been approved for development management purposes. These include policies which seek to ensure that future residential occupants are provided with a satisfactory amount of indoor living and outdoor garden space. Following a thorough analysis of the proposal versus the internal and external space standards policies, it is considered that:

* 0% of the 4 dwellings units comply with D DM2. The required standard in respect of plots 3 & 4 is 96m2 (3 bedroom/5 person) but the two dwellings only achieve 79.6m2. Meanwhile, the required standard in respect of plots 1 & 2 is 83m2 (2 bedroom/4 person) but the two dwellings only achieve 63.6m2.

* Only 25% of the 4 dwellings comply with D DM3 in respect of the area of private rear garden. The requirement for 2 and 3 bedroom semi-detached dwellings is 85m2 and only plot 3 exceeds this (96.5m2). The remaining gardens are 51.2m2 (plot 4), 42.5m2 (plot 1) and 54m2 (plot 2).

* Only 25% of the 4 dwellings comply with D DM3 in respect of the required 10m depth of rear garden. Plot 2's rear garden is 10m deep but the rest are either 8m or 8.5m.

It is therefore clear that the proposal fails to comply with policies D DM2 and D DM3. It is considered that the low amount of internal and external space will have an adverse impact on the enjoyment of the dwellings by future occupiers and that living conditions will be affected. The lack of external amenity space might also result in residents having to take more trips to local parks and other recreation facilities - and this may result in more car trips.

AFFORDABLE HOUSING CONTRIBUTION

An Interim Affordable Housing Policy was approved by Full council on 18th August 2010. The policy states that the Interim policy is in accordance with the National policy and for developments of 1-14 units an affordable housing provision of 15% will be sought district wide for off-site provision. In this case, a contribution of £7,064 is required and a S.106 Agreement has been signed and submitted with the application.

SUMMARY

Whilst it is not considered that the proposed scheme is (as per the previous application) an overdevelopment that is out of character with the surroundings, with reference to the new space standards policies, it is clear that the site cannot accommodate 4 new dwellings and meet the policies. Indeed, it is considered that a workable solution would be to simply have a terrace of three dwellings where plots 3 & 4 are sited. These would have deep rear gardens and with front gardens, would not open onto the roadway. However, as the scheme stands, it is recommended that permission be refused for the following three reasons.

HUMAN RIGHTS ACT

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

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

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

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

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

SECTION 106 DETAILS

A Section 106 Agreement relating to this development has been signed and is considered to be complete. It includes a contribution in respect of affordable housing of £7,064 payable at the start of development.

RECOMMENDATION

REFUSE

1 The proposed internal living accommodation is considered to be unsatisfactory in size and would give rise to an unsatisfactory living environment and unacceptably small habitable rooms for future occupiers in conflict with the good design principles in the National Planning Policy Framework, Policy GEN7 of the Arun District Local Plan and the internal space standards set out in Policy D DM2 of the Publication Version of the

Emerging Arun District Local Plan (February 2014).

2 The proposed external rear gardens are considered to be unsatisfactory in size and would give rise to an unsatisfactory living environment and unacceptably small habitable private amenity spaces for future occupiers in conflict with the good design principles in the National Planning Policy Framework, Policy GEN7 of the Arun District Local Plan and the internal space standards set out in Policy D DM3 of the Publication Version of the Emerging Arun District Local Plan (February 2014).

3 The two proposed windows on the northeastern first floor elevations of plots 1 and 2 will give rise to direct overlooking of residential properties in Essex Road to the detriment of the amenities of the occupants of these properties in conflict with policy GEN7 of the Arun District Local Plan.

4 INFORMATIVE: Statement pursuant to Article 31 of the Town and Country Planning (Development Management Procedure)(England) (Amendment No. 2) Order 2012. 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.