

Recommendation Report for Planning Permission

REF NO: BR/82/22/PL

LOCATION: Holmlea, Main Unit Rear Of
Town Cross Avenue
Bognor Regis
PO21 2DN

PROPOSAL: Demolition of warehouse and proposed construction of 10 No. self contained apartments. This application is in CIL Zone 4 (Zero Rated) as flats.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION The application is for the demolition of the workshops and the construction of 10 self-contained apartments over 2 and 3 storeys.

 The middle part of the property would be 3 storeys with the third floor in a hipped roof. The north-western and south-eastern wing would have 2 storeys with the second floor in a half hipped roof with large crown. Three gabled dormers would be in the north-eastern roof plane of the three storey element and one in the roof plane of each wing. Two large flat roofed dormers are proposed to south-western roof plane of the 3-storey element and one gabled to the south-western roof plane of each wing. The middle part would have four two-storey bay windows with gable roof above and fake Tudor features on the north-eastern elevation where the main entrances are proposed. First floor flats in the wings would have an entrances from the side.

 There would be four 2-bed and two 2-bed flats at the ground floor, two 2-bed and two 1-bed at the first floor and two 1-bed flats at the third floor. Vehicular and pedestrian access to the site is to be via the existing access from Town Cross Avenue.

SITE AREA 0.03225 hectares

RESIDENTIAL DEVELOPMENT DENSITY (NET) 310 dwellings/hectare

TOPOGRAPHY Predominantly flat.

TREES None affected by the development. There is a 12m high Eucalyptus just to the north east of the site and a couple of smaller fruit trees along this boundary. These trees are protected in the gardens and have little or no branch overhang.

BOUNDARY TREATMENT The site is surrounded by fencing forming the boundaries of the surrounding houses and an industrial security steel

	palisade metal railings above 2m high with the gates of the same height to the front of the workshop.
SITE CHARACTERISTICS	The site is to the rear of Holmlea. On site is a large single storey workshop which is painted white with windows on the back and front of the workshop and a corrugated roof with roof lights. To the rear are garages and two large containers.
CHARACTER OF LOCALITY	Predominantly residential area with houses of varying styles and ages but all two storeys in height.

RELEVANT SITE HISTORY

BR/288/17/PL	Rear extension to storage & workshop areas & roof extension	ApproveConditionally 23-03-18
BR/72/14/PL	Demolition of existing buildings and redevelopment of the site with 4no. dwellings. Resubmission of BR/41/13	Refused 16-07-14
BR/41/13/	Demolition of existing buildings and redevelopment of the site with 6 No. two bedroom dwellings	Refused 11-06-13

Reasons of refusal of planning application BR/72/14/PL for the erection of 4 dwellings:

(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.

Reasons of refusal of planning application BR/41/13/ for the erection of 6 dwellings:

(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

Bognor Regis Town Council: No objection

- Further thoughts needed to be given to emergency vehicular access.

34 letters of objection:

- The proposed development would increase the housing density in an already congested area.
- There are concerns about service and emergency vehicles being able to access the site.
- There could be up to twenty cars linked to this development whilst 8 car parking spaces are proposed.
- Parking in the roads connected to Town Cross Avenue is a serious issue at the moment.
- This development would be overlooking a number of other properties including the back gardens of Essex Road, Halson Close and Fletcher Way.
- Lots of houses have been converted in to flats over the years in this area and parking is a big issue.
- It is inappropriate plot with a very narrow access for proposed residential property.
- The flats would directly overlook into the back gardens of the properties in this area.
- Lack of consideration towards residents of a busy thoroughfare with noisy motor cycle garage business.
- Town Cross Avenue with the excessive number of vehicles parked right up on the pavement restricts the movement of pushchairs and wheelchairs.
- Residential development of the site (to replace a motorcycle business) is supported, however, there is a concern at the proposed density.
- The entrance to the site is too narrow; fire engine or ambulance would have a difficulty to get there.
- The local Doctors surgery is already oversubscribed as are the other surgery in the area; the proposal would have an impact on local community.
- The flats will affect homes and gardens in the surrounding area in terms of noise and overlooking.
- No consideration of street lightning. This narrow road is barely wider than a driveway and only has room for one vehicle at a time.
- It is unclear how will refuse be collected from the proposal site.
- There are concerns regarding noise from vehicles for 10 flats 24 hours a day.
- There was no advertising of the proposed application.
- The privacy of Halson Close would be ruined even more, an infringement on their rights due to the vicinity and the height of the proposed development.
- Residential use of the site would be better than commercial, however, not an absurd overdevelopment.
- Refuse collection vehicles and emergency services, particularly fire services, will struggle to gain access onto the proposed site.
- This site would provide the perfect location for single story bungalows.
- St. Richards hasn't got capacity for more housing in the region nor does community medical services.
- Planning permission was refused twice before; how it could or should be passed now with ten flats.
- Traffic management at this location should be investigated before considering this application.
- An inspection of the roof spaces in the current buildings before the demolition took place would be recommended to ensure these buildings are not a roosting site.
- Vehicles park part on the pavement making it more of a challenge for pedestrians.
- A 3 storey block of flats is not in keeping with the area.

1 letter of support:

- Support the application which could improve current use as a motorcycle service business, however the number of dwellings to be reduced to a maximum of 4 apartments with associated off-street car parking spaces.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted. The planning issues will be discussed in the Conclusions.

With reference to concerns for emergency vehicular access, WSCC Highways requests the applicant to demonstrate via swept path tracking that a fire appliance and refuse vehicle can safely access and egress the site, as well as turn on-site and exit on to the maintained highway in a forward gear.

The applicant's intention was to increase the number of the parking spaces up to 10, however, it would still fail to satisfy the requirement of the ADC Parking Standards.

Site notices were displayed on site on 13th of May 2022 (utility pole at the entrance to Halson Close, utility pole at the junction of Town Cross Avenue/Essex Road and at the end of Fletcher Way (cul de sac)).

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

ADC ECONOMIC DEVELOPMENT: Object to the loss of this commercial property due to the ongoing loss of commercial units in the district against a background of increased demand. This situation displaces businesses, and, in some cases, they are unable to secure alternative premises nearby or within a reasonable travelling distance for staff.

DRAINAGE ENGINEERS: No surface water drainage strategy or FRA have been supplied with this application. Infiltration must be fully investigated, particularly as there is no mapped surface water sewer or watercourse in the vicinity of the site. Any proposed soakaway must be located at least 5m from buildings (including off-site) and 2.5m from the site boundary. We will oppose any proposed connection of surface water to the foul sewer.

WSCC HIGHWAYS (LHA): It is unclear from the plans if a fire appliance or refuse vehicle can access and turn on-site safely, as no such demonstration has been provided. Requests the applicant to demonstrate via swept path tracking that a fire appliance and refuse vehicle can safely access and egress the site, as well as turn on-site and exit on to the maintained highway in a forward gear. The LHA requires additional information before an adequate assessment can be made for the proposals.

WSCC WEST SUSSEX FIRE and RESCUE SERVICE: Evidence is required to show that all parts inside all flats are in 45m of a fire appliance in accordance with Approved Document B Volume 1 2019 Edition B5 section 13. This is to be measured along the hose lay route, not a direct line or arc measurement.

WSCC, LEAD LOCAL FLOOD AUTHORITY: The area of the development is shown to be at high risk from groundwater flooding based on current mapping. This risk is based on modelled data only and should not be taken as meaning that the site will/will not suffer groundwater flooding.

WSCC INFRASTRUCTURE - SECTION 106 CONSULTATION RESPONSE: Contributions of £28,634 are required to mitigate the impacts of the subject proposal with the provision of additional County

Council service infrastructure, highways and public transport that would arise in relation to the development.

- (1) Primary Education - £8,071;
- (2) Secondary Education - £15,327;
- (3) Education 6th Form - £2,035;
- (4) Libraries - £2,952 on additional facilities at Bognor Regis and Littlehampton Library;
- (5) Fire & Rescue - £249.

ENVIRONMENTAL HEALTH: No objection subject to suggested condition regarding to Contaminated Land, Internal Noise Level, External Lighting and Construction Management Plan.

ADC PARKS AND LANDSCAPES: No objection. Section 106 monies should be sought for offsite improvements to recreation and leisure facilities as detailed in our SPD Open Space, Playing Pitches, Indoor and Built Facilities January 2020.

This 10 flat development should generate $10 \times £1971.20 = £19,710.00$ for offsite POS as a 106 and $10 \times £1730.30 = £17,303.00$ for offsite Play as a 106 contribution. There is insufficient space in the development to provide on-site provision for open space and play facilities, therefore off-site S106 contributions are sought to mitigate for the additional demand created. Playing pitch contributions are also sought to enhance local facilities for the increase in population.

NATURAL ENGLAND: No objection subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s) but advises the Local Planning Authority carries out an Appropriate Assessment to assess the impact of increased recreational disturbance arising from the proposal on the Pagham Harbour Special Protection Area (SPA) & Ramsar Site.

SUSSEX POLICE: To reduce the opportunity for crime and the fear of crime, comments from a Secured by Design (SBD) perspective are recommended. Further details can be found at www.securedbydesign.com. The applicant is directed to www.securedbydesign.com where the SBD Homes 2019 Version 2 document can be found. For additional information chapter 27 of the SBD Homes Document Version 2 2019. Full comments are online.

PRIVATE SECTOR HOUSING: The development must meet all criteria listed in Private Sector Housing comments. Full comments are online. Housing standards, including room sizes and facilities must be complied with.

WSCC EDUCATION: Objection. The development should be expected to contribute towards the new secondary school to mitigate its impacts for secondary education, as identified in the Local Plan, because the local secondary schools are not able to accommodate the new pupils.

COMMENTS ON CONSULTATION RESPONSES:

NATURAL ENGLAND - An Appropriate Assessment (AA) has not been issued to Natural England for review. The S106 has not been signed so this will form a reason for refusal.

POLICY CONTEXT

Designation applicable to site:

Within the Built Up Area boundary;

Pagham Harbour Access Management Zone B;
 Prone to Ground Water Flooding;
 WSCC Mineral Consultation Area;
 Superficial Deposits.

DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
DSP1	D SP1 Design
ECCSP2	ECC SP2 Energy and climate change mitigation
EMPDM1	EMP DM1 Employment Land: Development Management
EMPDM2	EMP DM2 Enterprise Bognor Regis
ENVDM2	ENV DM2 Pagham Harbour
ENVDM5	ENV DM5 Development and biodiversity
INFSP1	INF SP1 Infrastructure provision and implementation
QEDM1	QE DM1 Noise Pollution
QEDM2	QE DM2 Light pollution
QEDM4	QE DM4 Contaminated Land
QESP1	QE SP1 Quality of the Environment
SDSP1	SD SP1 Sustainable Development
SDSP2	SD SP2 Built-up Area Boundary
OSRDM1	Protection of open space, outdoor sport, comm& rec facilities
TSP1	T SP1 Transport and Development
WDM1	W DM1 Water supply and quality
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems
WMDM1	WM DM1 Waste Management

PLANNING POLICY GUIDANCE:

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

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.

There are no relevant policies within the Bognor Regis Neighbourhood Development Plan for the determination of this application.

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 does not comply with relevant development plan policies in that it would affect adversely visual and residential amenities of nearby properties. No Section 106 agreement has been signed. In the absence of a Section 106 agreement, the proposal makes insufficient provision for infrastructure requirements. The proposal fails to provide the necessary mitigation measures in respect of the Pagham Harbour SPA.

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

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

CONCLUSIONS

PRINCIPLE

The site is in the built-up area boundary where development is acceptable in principle in accordance with policy SD SP2 of the Arun Local Plan provided it accords with other policies of the Local Plan covering issues such as visual/residential amenity, highway safety, parking and biodiversity.

Bognor Regis have a made Neighbourhood Plan, however, there are no policies relevant to the application.

The NPPF gives a presumption in favour of sustainable development and generally seeks to promote the effective use of all land. NPPF paragraph 124 (d) states planning policies and decisions should support development that makes efficient use of land, taking into account the desirability of maintaining an area's prevailing character and setting (including residential gardens).

The Council acknowledges it cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11(d)ii of the National Planning Policy Framework (NPPF) is engaged. The proposal would deliver 10 flats in a sustainable location, nevertheless, ten flats would make only a minimal contribution to the shortfall in housing supply.

The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. The failure of the proposal to do this would be in direct contradiction to paragraph 124 of the NPPF and consequently the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when considered against the policies in the Framework as a whole.

DESIGN AND VISUAL AMENITY:

Policy D SP1 of the Arun Local Plan stresses that successful development should respond to local distinctive pattern of development. Paragraph 13.2.9 of the Local Plan (Design) continues insisting that new development should ensure that height and massing does not interrupt or debase the rhythm of existing building/roof line or detract from the local and wider area's character.

The Arun Design Guide Supplementary Planning Document (SPD) is a material consideration in the determination of applications. Part P.O1 deals with infill development and requires development to respond positively to the character, appearance, and layout of surrounding buildings to provide high quality development which enhances amenity for surrounding and new residents.

Paragraph 130 of NPPF emphasises that planning policies and decisions should ensure that developments:

a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development.

The proposal for 6 dwellings on this site (BR/41/13/) was refused as an overdevelopment. The current proposal for 10 flats fills the entire area leaving 1m separation distance from the south-western shared boundary in the area characterised by deep rear gardens. The building would not respect the scale and mass of surrounding buildings and would have a design which bears no relation to the style and design of any of buildings around it or to the nature of the area.

The proposal would fail to introduce itself successfully into established townscape whilst policy D SP1 of the ALP expect the new development to be harmonious with their surroundings, contrary to policies D SP1 and D DM1 of the ALP, the Arun Design Guide and paragraph 130 of the NPPF.

EMPLOYMENT LAND:

In policy EMP DM1 the Council seeks to protect and enhance employment sites and premises to meet the needs of businesses and local economy. Policy EMP DM2, Enterprise Bognor Regis, considers as the main evidence to support the need for employment in the District unemployment, worklessness data and low job density.

Paragraph 81 of the NPPF asks for the creation of the conditions in which business can invest, expand and adapt.

There are some concerns from local residents with regards to the use of the site in terms of the operation of a noisy motorcycle garage being a blight on local residential community. The Economic Development team is of opinion that the business population in Arun has increased by 15% in five years showing that there is strong demand for employment space in Arun.

They are aware of the ongoing loss of commercial units in the district against a background of increased demand. This situation displaces businesses, and, in some cases, they are unable to secure alternative premises nearby or within a reasonable travelling distance for staff. The Arun Economic Strategy 2020 -

2025, seeks to protect existing employment spaces for the reasons above and Economic Development object to the loss of this commercial property.

The position of the existing light industry with low-key buildings is appropriate for this locality resulting in a well-balanced mix use development with residential development at the front providing positive street frontage along the main road.

The proposed development would be contrary to policies EMP DM1 and EMP DM2 and paragraph 81 of the NPPF.

RESIDENTIAL AMENITY

Arun Local Plan policy D DM1 requires new development to have a minimal impact to users and occupiers of nearby property and land via loss of privacy, outlook and an unacceptable disturbance. In the ALP policy QE SP1 the Council requires that all development contributes positively to the quality of the environment and will ensure that development does not have a significantly negative impact upon residential amenity, the natural environment or upon leisure and recreational activities enjoyed by residents and visitors to the District.

One of the 'core planning principles' of the NPPF is to create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience (paragraph 130 f).

10 residential units are proposed in the form of one large 2-storey building with the third storey in the habitable roof and two single storey side wings with habitable roofs. It would be 37m long, 10m deep on sides and approximately 8.5m in the middle and the main part of the building would be 9.4m high.

The presence of a substantial structure within 1m of the shared boundary with dwellings in Halston Close and the dwellings of the end of cul de sac in Fletcher Way would have an overbearing effect and there would be a direct overlooking of their gardens from the windows on the south-western elevation; especially the gardens of No 5 of Halston Close and No 30 of Fletcher Way.

There would be a substantial separation distance of 34m to the rear elevation of properties on the southern side of Essex Road. However, their rear garden would be overlooked from the habitable window at the first and second floor level of the proposed building.

The access to the site with 10 flats is alongside of Holmlea and Ingeborg Villas and their rear gardens with prospective occupants commuting in and out of the site in any time of day/night. There are no windows on the flank elevations of these properties. However, their most private area immediately to the rear of the house would be affected.

The proposals by reason of loss of privacy and being overbearing would fail to protect the residential amenity of occupants of neighbourhood properties, in conflict with policies D DM1 and QE SP1 of the Arun Local Plan and paragraph 130(f) of the NPPF.

INTERNAL and EXTERNAL SPACE STANDARDS

Policy D DM2 of the Arun Local Plan requires internal spaces to be an appropriate size to meet the requirements of all occupants and their changing needs. Section J.08 of the ADC Design Guide SPD reiterates the need to comply with the national internal space standards.

The application proposes 1-storey, 2-bed, 4-person and 1-storey, 1 bed 2 person flats. The minimum Gross Internal Area (GIA) for which, according to the standards, would be 70sqm and 50sqm respectfully whilst floor plans indicate a GIA of 75sqm for 2-bed flats 2, 3 and 7, however, 2-bed flats 1, 4 would have only 61sqm (for 3 person only). 1-bed 2 person flats would be from 53sqm to 56.3sqm which would slightly exceed the national internal space standards and comply with policy D DM2 of the ALP.

Paragraph H.04 of the Arun Design Guide SPD advises that communal residential spaces (common in flatted developments) provide an element of amenity to complement lower levels of private outdoor space which should be safe, usable, designed to a high standard and well managed, minimum 40sqm plus 10sqm for each unit.

No amenity space is provided. The proposal fails to accord with the guidance in the ADC Design SPD or policy QE SP1 of Arun Local Plan which requires all development to contribute positively to the quality of the environment.

WASTE STORAGE PROVISION

Policy WM DM1 of the Arun Local Plan affirms "New residential development, including conversion of one dwelling into multiple units, will be permitted provided that:

- a. It is designed to ensure that kerbside collection is possible for municipal waste vehicles;
- b. Where appropriate, communal recycling bins and safe bin storage areas are available to residents of flats.

The submitted plans do not indicate any provision of communal recycling bins and safe bin storage area, whilst communal / bulk bins used on the basis of 240 litres of residual waste storage/bin per flat would be required. Alternatively, one 240 litre wheelie bin for each property can be provided. The same amount of storage space/bins for recyclable materials is required to be provided.

For the above reason, the proposed development would fail to comply with policies WM DM1. The provision of waste could be covered by a condition.

SITE ACCESS, PARKING AND HIGHWAYS IMPACT

ALP policy T SP1 of the Arun Local Plan requires development proposals to provide safe access on to the highway network and to incorporate appropriate levels of parking in line with adopted planning policies. The ADC Parking Standards (SPD) sets out the vehicle/cycle and EVCP parking standards. Policy T DM1 requires that development be in easy access of established non-car transport modes/routes and seek to contribute to the improvement of such routes & facilities.

The applicant proposes to utilise the existing vehicular access on Town Cross Avenue. The submitted plans failed to demonstrate if a fire appliance or refuse vehicle can access and turn on-site safely.

The expected level of provision for 1 and 2-bed dwellings in Parking Behaviour Zone 4 is one car for each dwelling and one bicycle parking/storage per dwelling. Visitor car parking at 20% of the total units is required according to paragraph 3.3 of SPD. Principle 3, 2.16 states that 'active' charging points for electric vehicles shall be provided at a minimum of 20% (at 2019 levels of provision) of all parking spaces with ducting provided at all remaining spaces where appropriate to provide 'passive' provision for these spaces to be upgraded in future.

Each dwelling would be provided with one allocated off road parking space and one cycle parking space. This is in

accordance with Arun Parking Standards (APS). The applicant failed to provide 2 visitors car parking spaces according to the requirement of the APS. Five of proposed parking spaces and emergency vehicle area are shown where Electricity Sub Station is located without explanation what would happen with the station.

The LHA required additional information from the applicant before an adequate assessment can be made for the proposals which was not provided.

The proposal, due to the lack of information, have not been adequately assessed contrary to policies T SP1 and T DM1.

WATER, FLOODING & SURFACE WATER DRAINAGE

The Council, as stressed in policy W SP1, will support development that is appropriately located, taking account of flood risk and promotes the incorporation of appropriate measures and W DM3 states that all development must identify opportunities to incorporate a range of Sustainable Urban Drainage (SUDs) systems. The site lies in Flood Zone 1. The Council's climate change mapping shows it would not be affected by 2111.

The area of the proposed development is shown to be at high risk from groundwater flooding based on current mapping. No surface water drainage strategy or FRA have been supplied with this application. Arun District Council's Drainage Engineers would oppose any proposed connection of surface water to the foul sewer.

The development would not comply with policies W DM1, W DM2 and W DM3 of the Arun Local Plan and paragraph 167 of the NPPF. Drainage matters can be controlled by condition.

CLIMATE CHANGE

ALP policy ECC SP2 requires residential development be energy efficient and incorporate decentralised, renewable, and low carbon energy supply systems.

As there are no decentralised, renewable and low carbon energy supply systems proposed, a condition would be necessary to secure compliance with the policy.

PUBLIC OPEN SPACE & PLAY

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

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

The Council's supplementary planning document (SPD) "Open Space, Playing Pitches, Indoor and Built Sports Facilities" (January 2020) does not state any requirements for on-site public open space (POS) or play facilities. However, the SPD does set out a requirement for contributions towards local POS & play spaces, sports pitches, sports & leisure facilities.

The requirements are considered to meet the CIL tests (Regulation 122 of the Community Infrastructure Levy Regulations 2010). As this site is zero rated for CIL it is still possible to secure off-site financial contributions through a S.106 Legal Agreement.

The above requirements are not secured since S106 legal agreement was not completed. As such, there is a conflict with ALP policies OSR DM1 and HWB SP1.

SUPPORTING INFRASTRUCTURE

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

The Council received requests from both WSCC for contributions towards specific projects at sites in the area. The requirements meet the CIL tests (Regulation 122 of the Community Infrastructure Levy Regulations 2010).

The provision of Service Infrastructure related to the proposal was requested for Primary and Secondary Education, Libraries and Fire and Rescue in total £28,634.

The applicant failed to secure these: S 106 legal agreement was not completed. There is a conflict with ALP policy INF SP1.

PAGHAM HARBOUR SPECIAL PROTECTION AREA

ALP policy ENV DM2 requires residential developments in a 400m to 5km distance ('Zone B') of Pagham Harbour make a financial contribution towards the provision of accessible natural open green spaces to serve the area. A contribution of £871 per new unit was agreed by the Council's Cabinet on 10 April 2017. The site lies in the designated Zone B and this application results in a net increase in a slight intensification in occupancy.

The site is in Zone B and it is necessary to apply this requirement. Based on a net gain of 10 units the £8710 contribution should be paid. This has not been secured by the agreed Section 106 agreement and there is conflict with policy ENV DM2 of the Arun Local Plan.

BIODIVERSITY:

Policy ENV DM5 of the Local Plan requires development schemes to seek the achievement of a net gain in biodiversity and protection of existing habitats on site. They shall incorporate elements of biodiversity including green walls, roofs, bat and bird boxes as well as landscape features minimising adverse impacts on existing habitats (whether designated or not).

The scheme does not provide details of biodiversity net gain therefore not in accordance with the ALP policy ENV DM5. This does not result in a reason for refusal as biodiversity net gain can be conditioned.

OTHER MATERIAL CONSIDERATIONS

The Council cannot demonstrate a 5 year supply of deliverable land for housing (HLS). The Housing Land Supply (HLS) has decreased from 2.42 to 2.36 years. The proposal aims, amongst other things, to

make efficient use of land within the built-up area. Other benefits include a new home, jobs during construction, and its future occupiers' likely support for local shops and services. The harm identified above would significantly and demonstrably outweigh the benefits, when assessed against the Framework taken as a whole.

CONCLUSION

The development would affect adversely visual and residential amenities of nearby properties and would result in the creation of unacceptable living conditions for the future occupants not providing any amenity space and limited outlook from their habitable windows at the ground floor level. The applicant has failed to complete s106 Agreements with regards to Pagham Harbour mitigation measures and the development makes no provision for contributions to off-site public open space, to off-site children's play space, to off-site playing pitches, to off-site built sports & leisure facilities and to education/library/fire & rescue infrastructure improvements.

This report has balanced this harm against other material considerations, including that of the contents of the NPPF. Whilst it is acknowledged that the NPPF gives some support to using sites effectively, this material consideration is not of sufficient to outweigh the areas of harm identified above in both Development Plan and the NPPF and is recommended for refusal in accordance with paragraph 11(d)(ii) of the NPPF.

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

The decision would be granted with a S106 legal agreement relating to a contribution of £8,710 towards the cost of delivering measures to avoid or mitigate to an acceptable level, the harm caused to Pagham Harbour by the Development. No S106 has been completed for Pagham Harbour or other matters

requiring a legal agreement.

CIL DETAILS

This application is not CIL Liable as flatted development in Zone 4.

RECOMMENDATION

REFUSE

- 1 Having regard to the size, proximity and relationship of the building to neighbouring residential properties, the proposal would create unacceptable living conditions for the occupants of adjoining properties through overlooking to the private area of Halson Close and Fletcher Way and by way of being overbearing, in conflict with policies D SP1, D DM1, and QE SP1 of the Arun Local Plan, the Arun Design Guide and the NPPF.
- 2 The proposal by reason of its size and massing, represents an overdevelopment of the site without the ability to accommodate residential amenity for prospective occupiers contrary to policies and D DM1 of the Arun Local Plan, Design Guide and the NPPF.
- 3 Due to the lack of information relating to how a fire appliance or refuse vehicle can access and turn on-site, it has not been possible to conclude that the proposal would not harm highway safety in conflict with T SP1 of the Arun Local Plan and with the NPPF.
- 4 The development makes no provision for contributions to off-site public open space, to off-site children's play space, to off-site playing pitches, to off-site built sports & leisure facilities and to education/library/fire & rescue infrastructure improvements, and is contrary to the aims and objectives of the NPPF (2021), policy INF SP1 of the Arun Local Plan and the Council's supplementary planning document "Open Space, Playing Pitches, Indoor and Built Sports Facilities" (January 2020).
- 5 In the absence of a signed Section 106 agreement, the application fails to make a financial contribution towards the towards the agreed strategic access management measures to mitigate the harm to the Pagham Harbour Special Protection Area and the proposal is therefore not in accordance with policies ENV DM1 and ENV DM2 of the Arun Local Plan.
- 6 The redevelopment of the site would result in a loss of commercial floorspace. In the absence of marketing information to demonstrate that the site is no longer required/unlikely to be redeveloped for industrial/commercial purposes the proposal would result in harm to the supply of commercial land in the district contrary to policy EMP DM1 of the Arun Local Plan,
- 7 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.