Recommendation Report for Planning Permission

REF NO: **BR/87/16/PL**

LOCATION: 18 Durban Road
Bognor Regis

PROPOSAL: Demolition of two storey building & erection of three storey block of 8 No. one bedroom flats & 6 No. two bedroom flats with access from Durban Road.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The proposal involves the erection of a three storey block of flats comprising 8 one bed and 6 two bed flats on land which previously housed a vacant two storey commercial building. The layout of buildings on the site is in the form of a rectangular building with its principal frontage to Durban Road and a return frontage to Ash Grove, allowing car parking at the rear, with access under the building. The rear car park would provide parking for 15 cars and an area for storage for 15 cycles (in a shelter). A bin store would be provided to the south-east of the building. The new building is three storey in scale to reflect the scale of surrounding development, both existing in Ash Grove and the relatively new development known as Ventura opposite the site in Durban Road. Further detail on hard and soft landscaping of the site would be required by condition but the illustrative drawings submitted show that there is adequate space and opportunity for acceptable landscaping and open space around the new building.
SITE AREA	1150 sq.m. The footprint of the proposed building is 381m2.
RESIDENTIAL DEVELOPMENT DENSITY	N/A
TOPOGRAPHY	Predominantly flat. The site is below highway level by approximately 0.5 metres.
TREES	A group of mature trees are located on the

	north eastern corner of the site.
BOUNDARY TREATMENT	1.5 metre high wire mesh site to the rear of the site. The remainder is open.
SITE CHARACTERISTICS	The site was previously occupied by a 2 storey industrial building. Block work at ground floor level with a mansard roof of slates above. The building was last used as a warehouse/office. A prior notification application was submitted concerning the proposed demolition of the building, which has now taken place.
CHARACTER OF LOCALITY	Industrial units located south of the site and part of the Durban Road Industrial Estate. A relatively new residential development of flats two and three storeys high, known as Ventura, is located opposite the site on Durban Road. This development was granted permission on appeal in October 2005.

RELEVANT SITE HISTORY

BR/198/11/	Outline Application with some matters reserved for demolition of derelict two-storey building and erection of three-storey block of eight one-bedroom flats and six two-bedroom flats with access from Durban Road. Re-Submission following BR/341/10. This application also falls within the parish of Bersted.	App Cond with S106 09-01-2012
BR/156/15/DOC	Application for approval of matters reserved by condition imposed under BR/198/11 relating to conditions 4, 12 & 13 - Scheme to deal with risks of contamination (4), Cycle & Bin storage (12) & scheme for provision of foul & surface water drainage (13)	DOC Refused 14-09-2015

A similar scheme for a block of eight one-bedroom flats and six two bedroom flats with access from Durban Road was granted outline permission in 2012.

REPRESENTATIONS

Representations received:

Bognor Regis Town Council

No Objection.

Comments on Representations received:

N/A

CONSULTATIONS

Engineering Services Manager
Engineers (Drainage)
WSCC Strategic Planning
Economic Regeneration
Environment Agency
Surface Water Drainage Team
Planning and Housing Strategy
Sussex Police-Community Safety
NHS Coastal West Sussex CCG
NHS Coastal West Sussex CCG
Mr Clavell-Bate
Environment Agency

Consultations responses received:

ADC Housing Strategy:

This application comprises of 14 dwellings therefore the Council's affordable housing policy should be applied as part of the policy considerations. The applicants can meet this requirement by either providing 3 affordable homes on-site or by including a planning obligation commuted sum in the S106 agreement of £135,000, payable in-lieu of on-site provision. Following submission of viability assessment this figure was still considered to be an appropriate figure, but if we want to present ourselves as having a flexible approach to development viability, as required by both the NPPF and PPG, we could accept a lower commuted sum based on 5% of the scheme GDV which would be £86,750.

Crime Prevention Design Advisor:

The rear car park is overlooked by active rooms within the development which will provide good observation over the parking area. There is a good indication of defensible space and suitable boundary treatment which consists of post and rail fence and 1.8m high fencing around the development. Advice given on post arrangements either through the wall, eternally or lobby situated secure post boxes. Recommendation that accredited communal doors, front doors along the ground floor or any easily accessible windows are fitted within the development. An access control system, should be present with remote access facility from the flats. Lighting in and around the communal areas including car park will be a big consideration, and if implemented would benefit from meeting the requirements within BS5489:2013.

Environment Agency:

Initial objection due to lack of up to date Flood Risk Assessment (FRA).

Based on the additional information submitted the Environment Agency have no objection to the proposals, subject to the following condition of planning. The proposed development will only meet the requirements of the National Planning Policy Framework if the following measure(s) as detailed in the Flood Risk Assessment submitted with this application are implemented and secured by way of a planning condition on any planning permission.

West Sussex County Council: Flood Risk Management Consultation:

No objection. Low risk from surface water flooding and ground water floor risk. No records of

historic flooding on the site and no ordinary watercourses within the site. Advice on lack of information in the Flood Risk Assessment. Advice that groundwater monitoring and percolation testing would be required to determine the feasibility of using infiltration methods as the primary surface water drainage solution. Recommend condition requiring full details of maintenance and management of the SuDs system set out in a site specific maintenance manual submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved designs.

ADC Economic Regeneration:

No further comments on the application.

WSCC Local Highway Authority:

Initial consultation response - required up to date stage 1 Road Safety Audit to be carried out and a Designers Response. Plans to show visibility splays onto Durban Road and boundary treatments.

No concerns about site layout in relation to parking and turning areas. The provision of 15 parking spaces meets with the WSCC Parking Demand Calculator, each space should measure 2.4 x 4.6m and there should be a 6m corridor width to allow vehicles to enter and exit these spaces.

A bin storage area has been provided in line with MfS parameters, it is assumed that the site will be serviced from Durban Road? A communal cycle storage facility will also be provided on site.

Access
Access will be via the existing crossover onto Durban Road. This is approximately 5.0m wide which is adequate to allow two vehicles to pass. As in previous highways comments provided the LHA would advise that a crossover style access would be preferred to a bell mouth access, in keeping with others along Durban Road.

No objection. The Local Highway Authority (LHA) has been re-consulted in relation to the above development, to review the requested revised Road Safety Audit (RSA) and the Designer's Response.

The LHA would raise no highway safety concerns to the RSA, the Designers Response addresses all points raised. The National Planning Policy Framework states that development should only be prevented or refused on highway grounds where the residual cumulative impacts of the development are severe. The LHA do not considered that the development would result in any impacts on the local highway network that could be considered severe. No highway objection would be raised. The LHA would advise the following conditions and informative. Conditions recommended on access, visibility, vehicle parking and turning, cycle parking, construction plant and materials and an informative relating to S2768 agreements if necessary.

ADC Drainage Engineers:

Please apply standard conditions ENGD2A.
Infiltration rates for soakage structures are to be based on percolation tests undertaken in the winter period and at the location and depth of the proposed structures. The percolation tests

must be carried out in accordance with BRE 365, CIRIA R156 or a similar approved method and cater for the 1 in 10 year storm between the invert of the entry pipe to the soakaway, and the base of the structure. It must also have provision to ensure that there is capacity in the system to contain below ground level the 1 in 100 year event plus 30% on stored volumes, as an allowance for climate change. Adequate freeboard must be provided between the base of the soakaway structure and the highest recorded annual groundwater level identified in that location.

Any SuDS or soakaway design must include adequate groundwater monitoring data to determine the highest winter groundwater table in support of the design. The applicant is advised to discuss the extent of groundwater monitoring with the Council's Engineers. Supplementary guidance notes are also enclosed for information.

WSCC Strategic Planning: S106 consultation response

S106 contributions required towards the following:

£17,381 Primary education (for additional equipment at Bersted Green Primary School)
£18.707 Secondary education (for additional equipment at The Regis School)
£4,383 Sixth Form contributions (for additional equipment at The Regis Sixth Form)
£3,201 Library contributions (for addition stock at Bognor Regis Library)
£304 Fire and Rescue Service Contribution (to be used towards supply and installation of additional fire safety equipment/smoke alarms to vulnerable persons homes in West Sussex Fire Rescue Services Southern Area serving Bognor Regis.
Total contribution = £43,976

Comments on Consultation responses:

Comments noted.

POLICY CONTEXT

Designation applicable to site:
Bognor Regis Neighbourhood Plan: 8i - Northern Part of Durban Road Industrial Area.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:	DEV17	Affordable Housing
	GEN12	Parking in New Development
	GEN18	Crime Prevention
	GEN2	Built-up Area Boundary
	GEN5	Provision of New Residential Development
	GEN7	The Form of New Development
	GEN9	Foul and Surface Water Drainage
Publication Version of the Local Plan (October 2014):		D DM1 Aspects of Form and Design Quality D DM2 Internal Space Standards D DM3 External Space Standards D SP1 Design H DM1 Housing Mix H SP2 Affordable Housing INF SP1 Infrastructure provision and implementation OSR DM1 Open Space, Sport and

	Recreation QE DM4 Contaminated Land SD SP1 Sustainable Development SD SP2 Built-Up Area Boundary W DM1 Water Supply and Quality W DM2 Flood Risk W DM3 Sustainable Urban Drainage Systems
Bognor Regis Neighbourhood Plan 2015 Policy 1	Delivery of the Vision
Bognor Regis Neighbourhood Plan 2015 Policy 8A	Design Excellence
Bognor Regis Neighbourhood Plan 2015 Policy 8B	Car Parking
Bognor Regis Neighbourhood Plan 2015 Policy 8i	Northern part of Durban Road Industrial Area

PLANNING POLICY GUIDANCE

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

Arun District Council's Development Plans:

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.

Paragraph 216 of the NPPF confirms that weight can be given to policies in emerging plans from the day of publication. The Council resolved that the policies and maps in the Publication Version of the Local Plan be used are material considerations in the determination of this planning application. The emerging Plan was submitted in January 2015 and the examination is currently suspended. The examination is due to re-commence in 2017 following publication of modifications to the Plan.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan. Made Plans in Arun District Council's Local Planning Authority Area are: Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Yapton. The written Ministerial Statement of 13 December 2016 confirms that relevant policies for the supply of housing in Neighbourhood Plans should not be

deemed to be out of date where all of the following circumstances arise;

· The NDP has been part of the development plan for 2 years or less or the ministerial statement is less than 2 years old
· The NDP allocates sites for housing
· The Council can demonstrate a three-year supply of deliverable housing sites

Whilst an NDP is under preparation it will afford limited weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation(Reg.14).

The relevant Made Neighbourhood Plan is the Bognor Regis Neighbourhood Plan August 2015.

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 comply with relevant Development Plan policies in that it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it 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

The site lies within the built up area boundary where the principle of residential development is acceptable subject to accordance with relevant planning policies, in this case, the following development criteria being met:
(a) the impact of the development on the area's character and appearance and residential amenity (Policy GEN7 and Bognor NP Policy 8a),
(b) the effect on the supply of land and premises for employment use (Policy EMP DM1 of the Emerging Local Plan and Bognor NP Policy 8i);
(c) the highway implications of the development (Policy GEN7 viii and GEN12, and Policy 8b of the NP);
(d) the acceptability of the development in terms of flooding given the location in an area of high flooding probability (Policies GEN9, GEN10 and GEN11)
(f) contribution to affordable housing and other relevant infrastructure (Policies DEV17, AH SP2, GEN8 and the Interim Affordable Housing Policy 2010)

The principle of residential development on this site has already been established through the granting of outline permission for a three storey block of 8 no. 1 bed flats and 6 no. 2 bed flats (BR/198/11/) and this is therefore a material consideration. Since permission was granted, the Bognor Regis Neighbourhood Plan (NP) has been 'made' and is now part of the development plan. The NP includes this site within an allocation for the Northern Part of Durban Road Industrial Area (Policy 8i), which is encouraging proposals that contribute to the development of the area into a demonstration project for self-build/ self-commissioned low carbon working and living with a mix of uses: industrial, residential, employment, small scale workshops with a high number of jobs to floor area. Whilst this application does not fit with the aspirations of Policy 8i in relation to the development of a demonstration project for self-build, it does provide a residential use which is one element of the mix of uses. As this is a small site within the larger area, it is not considered that the use of the site for residential purposes would prejudice the achievement of a 'demonstration project for self-build' on the remainder of the site.

The site lies within the built-up area (Policy GEN2 of the Arun Local Plan) where development is acceptable in principle. The National Planning Policy Framework (NPPF) emphasises the need to make efficient use of land for development but also advises that new housing is well integrated with and complements neighbouring buildings and the local area generally in terms of scale, density, layout and access.

CHARACTER AND APPEARANCE

The site is located at the western end of Durban Road at its junction with Ash Grove where it is somewhat divorced from the industrial estate; the nearest industrial building is approximately 15m to the east of the site. Further west is Ash Grove where the site is overlooked by a long terrace of two storey residential properties located on the other side of the road. To the south and opposite the site in Durban Road is a 65 m long three storey block of 44 one bed flats known as Ventura.

The proposed building is modern in design, with walls to be constructed of a combination of brick and render with cement board cladding. The windows and doors are proposed to be dark grey powder coated aluminium with glass balcony guarding and stainless steel rails. The roof would be clad in a single sheet membrane with PVCu barrage boards which is considered to be in keeping with the contemporary appearance of the building.

It is therefore considered that given its context a block of flats in this location would not be out of keeping with the existing character and appearance of the immediate locality and would accord with Policy GEN7.

RESIDENTIAL AMENITY

The proposal would be on a corner plot not directly adjacent to any neighbouring residential properties so would not have an impact an existing residential amenity.

SUPPLY OF LAND AND PREMISES FOR EMPLOYMENT USE

The proposal would result in the loss of 250m2 of B1(a) office floorspace and therefore the loss of employment floorspace is a consideration.

The loss of employment floorspace was previously considered as part of BR/198/11/ (an earlier

residential scheme which was approved) and it was concluded that the proposal would not have an unacceptable or detrimental effect on the supply of land/premises for employment use in the District. The emerging Local Plan Policy EMP DM1 (2) seeks to protect existing employment sites where there remains a good prospect of employment use. The applicant has not demonstrated that the criteria in part 2 of the Policy have been met - due to the earlier approval of a residential scheme establishing the acceptability of the change to residential from employment. The Neighbourhood Plan recognises that there is expected to be a shift as businesses relocate to the Enterprise Zone and Policy 8i of the NP aims to manage the underutilization of employment land at Durban Road by introducing a more mixed use development.

It is therefore considered that, whilst not meeting the requirements of Policy EMP DM1 in the emerging Local Plan, the proposal fits within the mix of uses in the Neighbourhood Plan and has previously been considered not to have an unacceptable and detrimental effect on the supply of land/premises for employment use in the District.

HIGHWAYS AND ACCESS

The proposed access is considered by the Local Highway Authority to be acceptable and the necessary visibility splays and other road safety features can be provided. There are not considered to be an unacceptable or severe impacts on the local highway network. The amount of proposed off street car parking spaces (15) is adequate. It is worth noting that the demand for on street parking in an industrial estate area reduces in the evenings when the workforce depart and leave road space for returning residents who may be unable to access any of the 15 car parking spaces provided. Therefore, the proposal provides sufficient parking provision in accordance with Policy GEN7 viii and GEN12, and Policy 8b of the NP, and allows for the safe movement of pedestrians and vehicles in accordance with GEN7 vii.

FLOODING AND DRAINAGE

The site is located in flood zone 3a which is regarded by NPPF as land with a high probability for flooding. However, following amendments, the Environment Agency are satisfied with the submitted Flood Risk Assessments subject to conditions ensuring that the finished floor levels are set no lower than 2.65 above Ordnance Datum (AOD) and the mitigation measures set out in the FRA are implemented prior to occupation. Therefore the proposal accords with Policy GEN10 and GEN11 of the Local Plan in that the development would not itself be at unacceptable risk of flooding.

In relation to surface water drainage, WSCC Flood Risk Management Team have commented that in order for the proposed development to be adequately drained using infiltration methods (soakaways) then ground water monitoring and percolation testing during winter months is required to determine the feasibility of using infiltration methods. ADC Engineers have recommended a standard condition which would require this to take place prior to commencement of development, in addition to the details of the surface water drainage designs and their maintenance and management. To conclude, the application site accords with Policy GEN9 in that appropriate drainage capacity would be provided as part of the development.

INFRASTRUCTURE AND AFFORDABLE HOUSING CONTRIBUTIONS

As there is no affordable housing proposed on site, the Council's Housing Strategy Manager has

recommended that a legal agreement be entered into to provide an acceptable commuted sum for affordable housing (£135,000) in lieu of the provision of 3 on-site affordable homes in line with the Council's affordable housing policy (20%). The applicant has disputed this figure (as an earlier S106 agreement linked to BR/198/11) included a lower contribution of £17,706. The Housing Strategy Manager has confirmed that the sum is correct and consistent with the Council's policy and that the increase is as a result of reductions in the amount of available grant and the increase in land costs since 2011. The applicant submitted a viability appraisal in order to justify a reduced contribution towards affordable housing of £17,706. The Housing Strategy Manager has considered the evidence presented in the viability report and taking into account the Gross Development Value (GDV), costs, land value and competitive return to the developer/ landowner, have concluded that the amount requested for affordable housing (£135,000) equates to 7.78% of the assumed GDV of £1,735,000. The Council's assessment is that this sum does not materially affect the overall scheme viability and is a reasonable obligation to seek. However, the NPPF and PPG require a flexible approach to be taken to development viability and in this case the Council would be prepared to accept a lower commuted sum based on 5% of the scheme GDV which would be £86,750. The applicant has not agreed this sum.

Infrastructure provision will be required for the following infrastructure:
£17,381 Primary education (for additional equipment at Bersted Green Primary School)
£18,707 Secondary education (for additional equipment at The Regis School)
£4,383 Sixth Form contributions (for additional equipment at The Regis Sixth Form)
£3,201 Library contributions (for addition stock at Bognor Regis Library)
£304 Fire and Rescue Service Contribution (to be used towards supply and installation of additional fire safety equipment/smoke alarms to vulnerable persons homes in West Sussex Fire Rescue Services Southern Area serving Bognor Regis.

Therefore, the total contribution under the S106 agreement would be £178,976, which would ensure that the development accords with Policy GEN8 through the provision of necessary infrastructure to meet the needs of future residents. As the applicant has not agreed to the required commuted sum for affordable housing, the proposal is contrary to Policy DEV17 of the Arun Local Plan as updated by the Affordable Housing Policy (2010) and emerging Local Plan Policy AH SP2 as it has not been demonstrated to the satisfaction of the Council that the scale of the obligations required would compromise the deliverability of the development.

CONCLUSION

The proposed development would not result in unacceptable harm to the visual and residential amenity of the locality nor the supply of employment land in the area. It would be acceptable in terms of highway safety and the measures proposed in the Flood Risk Assessment would ensure that the development is safe in terms of possible flooding in the area. However, due to the lack of a signed S106 agreement in relation to the required contribution towards affordable housing and the infrastructure requirements set out above, the proposed development would be contrary to Policy DEV17 of the Arun Local Plan 2003 as updated by the revised Affordable Housing Policy agreed by Council on 18th August 2010 and Policy AH SP2 of the Arun Local Plan 2011-2031 Publication Version showing Modifications (2014, updated March 2017) and GEN 8 of the Arun Local Plan.

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

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

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

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

RECOMMENDATION

REFUSE

1 The proposed development fails to make an adequate contribution towards affordable housing provision and infrastructure provision and is thereby contrary to the aims and objectives of the NPPF and Policy DEV 17 of the Arun Local Plan (2003) as updated by the Council's interim affordable housing policy adopted on 18 August 2010, Policy AH SP2 of the Arun Local Plan 2001 - 2031 Publication Version showing Modifications (updated March 2017) and Policy GEN 8 of the Arun Local Plan (2003).