Recommendation Report for Planning Permission

REF NO: **LU/229/15/PL**

LOCATION: Littlehampton Harbour
at Iron Bridge
and junction of South Terrace/Arun Parade Littlehampt

PROPOSAL: Installation of 5 No. Powerframe Micro Tidal Energy Convertors. This applicaiton is a Departure from the Development Plan.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

Proposal for 5 tidal turbines - renewable energy production units

Background of Saunders Energy and Economic Regeneration Issues

The new start firm Saunders Energy, who are receiving European funding to advance this new form of renewable energy, have rented an industrial unit on Littlehampton Marina and intend to grow the business once their first test tidal turbine rig, subject of this application, is up and running. They intend to install one test rig on the western pier of the pedestrian footbridge and then sell a further 4 to local businesses if the test goes well. They expect to expand to employing 8 staff this year and to grow more in the future based out of Littlehampton - The Economic Regeneration Team have been asked to comment on the application.

Principle and description of each unit

The principle of the tidal turbine units is that they can be put in and taken out of the water very much like a boat. They are 'low tech' in this sense with relatively little infrastructure requirements.

Each turbine is located within hexagonal wire mesh cage measuring approx. 5 metres in length by 3 metres in width and 2 metres in height. The whole structure is floated using 4 bright yellow floats and is connected to the grid via a transformer box linked to existing infrastructure on the pedestrian iron bridge

	(streetlights) and pontoons (pontoon lights and electricity hook up points for marine vessels) .
SITE AREA	0.1 hectares in total
TOPOGRAPHY	Tidal river (Arun)
TREES	N/a
BOUNDARY TREATMENT	n/a
SITE CHARACTERISTICS	Location of Tidal Turbine Units - 2 tidal turbines will be located on the western pier of the pedestrian bridge over the River Arun near the Marina. These 2 tidal turbines will be entirely submerged at low and high water with only 4 bright yellow floats per unit visible plus a thin boom transferring the electricity produced to a transformer unit located on the servicing platform adjacent to a street light on the pier. - 2 tidal turbines will be located on or adjacent to the southern end of the pontoons which the Arun river taxi uses close to the fishmongers stand and the final tidal turbine will be located on the river wall next to them. These 3 tidal turbine units will float submerged at high tide but rest on the bottom of the riverbed at low tide - approx. half of the caged turbine units would be visible plus the 4 bright yellow floats per unit.
CHARACTER OF LOCALITY	The proposed microgenerators would be located in 2 locations. 2 would be located by the pedestrian bridge over the River Aun which is a mixed leisure, residential and commercial area on the River Arun with a focus upon river based commerce including yacht and boat yards on the West Bank and riverside housing on the East Bank to the south with heavy industry to the north. 3 would be located on a pontoon and attached to the river wall near to the permanent fish stall which is a mixed area of tourist activities , riverside leisure commerce including resstaurants and fish and chips shops with the Arun Yacht Club opposite. The pontoons serve the Littlehampton River Taxi service and

charter fishing businesses primarily for tourist

RELEVANT SITE HISTORY

None relevant.
Planning applications for pontoons on the east bank and the dredging of deep water harbour areas have been approved on the East Bank.

REPRESENTATIONS

Representations received:

Littlehampton Town Council

Littlehampton Town Council - No objection

No other comments were received following the publicity of the application at both sites.

Comments on Representations received:

Comment noted.

CONSULTATIONS

Engineering Services Manager
Engineers (Coastal Protection)
WSCC Strategic Planning
Southern Water Planning
Littlehampton Harbour Board
Environmental Health
Engineers (Fluvial Flooding)
Ecology Advisor
Environment Agency
Economic Regeneration

Consultations responses received:

Environment Agency - No objection
Flood Risk Defence certificate not required as EA satisfied that flood risk not an issue.

West Sussex County Council - No objection
Proposal not considered to be a large generator of traffic.

Condition required requesting Construction Management Plan fro installation of microgenerators from South Terrace does not apply as the floating microgenerators would be installed by moving them down river from Littlehampton Marina by boat.

ADC Environmental Health - No comment

ADC Economic Development - Support the application due to the creation of jobs in Arun.

ADC Engineers (Fluvial Flooding) - No surface water drainage comments

Marine Management Organisation Licence

The tidal turbines are also subject to licensing by the Marine Management Organisation. The

licence application was submitted at the end of July and is expected to be granted on 3rd October 2015.

Littlehampton Harbour Master and the Harbour Board

Saunders energy are working closely with the Littlehampton Harbour Master and Board. The Harbour Master has raised no objections in his comments on this application or on the MMO licence application. The Harbour Masters office and tug boats will be carrying out some of the structural works to accommodate the tidal turbines.

Comments on Consultation responses:

Comments noted

POLICY CONTEXT

Designation applicable to site:
Outside Built Up Area Boundary

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:	AREA8	Littlehampton Harbour Strategy
	GEN3	Protection of the Countryside
	GEN7	The Form of New Development
	GEN21	Renewable Energy
Publication Version of the Local Plan (October 2014):		D DM1 Aspects of Form and Design Quality
		D SP1 Design
		ECC DM1 Renewable Energy
		ENV DM5 Development and Biodiversity
		EMP DM3 Littlehampton Harbour

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework
NPPG	National Planning Practice 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 in the determination of this planning application. Following 'publication' of the Local Plan a formal public consultation, examination and adoption process takes place.

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 on 30th October 2014 for six weeks.

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. Whilst an NDP is under preparation it will afford little 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).

Made Plans in Arun District Council's Local Planning Authority Area are: Angmering; Arundel; Barnham & Eastergate; Bersted; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; and Yapton.

No policies in the Littlehampton Neighbourhood Development Plan are considered relevant to the application.
It is noted that the Environment Agency have no objections to the proposals on flood risk grounds.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

PLANNING
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 conflict with relevant Development Plan policies in that it supports the continuation and development of the harbour as a commercial port. In addition it is considered 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 a significantly 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

The sites are on the river Arun, technically in the countryside outside of the built-up boundary where the principle of development is considered unacceptable. Development Plan policies seek to exert a strict control over new development in the countryside to protect it for its own sake.

Development will only be permitted in exceptional circumstances or where there is a strong justification for a countryside location. The Government's planning advice indicates that planning authorities should continue to ensure that the quality and character of the wider countryside is protected, and where possible enhanced.

Saved policy GEN3 seek to focus development within the built-up areas, and safeguard the land outside the built up areas (referred to as the countryside for policy purposes). Recent appeals have considered that weight can be afforded to this policy as they are compliant with the core planning principles set out in Paragraph 17 of the NPPF. However, Policy GEN3 of the Local Plan does not specifically preclude development in the countryside and allows it should they meet one of five criteria. These are:
- it is necessary for agriculture, forestry, minerals extraction or waste deposit;
- for quiet, informal recreational use;
- diversification of the rural economy;
- relates to an essential road scheme;
- it accords with the Area Policies and those that relate to Specific Types or Forms of Development in Sections 2 and 3 of the Local Plan.

This proposal would be located within policy AREA8 of Arun District Local Plan and is considered to comply with it because it 'supports the continuation and development of the harbour as a commercial and recreational port' as a water based economic activity which has been supported by the Councils Economic Regeration Team and the Littlehampton Harbour Master.

Policy EEMPDM3 Littlehampton Harbour Strategy at part supports the development of marine related uses.

The site of this proposal on the Arun River does not fall within the Policy Area 10 Strategic Gaps and as such this further level of protection of the area against incursive development does not apply.

On the basis of aims and objectives contained within the National Planning Policy Framework (NPPF), the Planning Practice Guidance for renewable and low carbon energy, and the draft Arun District Local Plan, it is considered that the proposed scheme represents a valid exception to the restriction imposed on rural development within the district.

The proposed development is therefore considered to be acceptable in principle

RENEWABLE ENERGY
The proposed development will generate 4.5 kw of energy per microgenerator approximately equal to a large 16 panel solar pv system from tidal energy which is a renewable source. Producing electricity with PV emits no pollution, produces no greenhouse gases and uses no finite fossil-fuel resources. The increased production of energy from tidal PV offers very real benefits in savings in CO2 emissions and reducing the impact of greenhouse gases on climate change. The development will also contribute to a constant and affordable source of energy, contribute to economic stability and provide a further form of diversification to support the rural economy of West Sussex.

Arun District Local Plan (2003): Policy GEN21 states that development for renewable energy

generation will be granted subject to
1) any significant effects on the natural or built environment
2)impact on amenity of neighbouring residents
3)adverse effect on public safety
4)contribution to meeting need and reducing the harmful emissions of damaging green house gases.

Part 10 of the NPPF states that local authorities should "have a positive strategy to promote energy for renewable and low carbon sources" and "design their policies to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts."

In paragraph 98, Local Planning Authorities are advised to approve an application (unless material considerations indicate otherwise) if its impacts are or can be made acceptable. In relation to conserving and enhancing the natural environment, Councils should ensure that valued landscapes are protected and enhanced (paragraph 109).
A number of Local Plan Policies are relevant to the principle of the proposal. Policy GEN21 of the Arun District Local Plan states that planning permission will be granted for renewable energy developments subject to a number of criteria, including no significant adverse impacts on natural and built environments, residential amenity, public safety and ensuring that they make a contribution to meeting a need.

The NPPF and the Planning Practice Guidance were published more recently than the adopted Local Plan and therefore the policies contained within these are afforded greater weight than the Local Plan Policies. The NPPF is clear that applicants no longer have to demonstrate the need for renewable energy developments whilst the Practice Guidance emphasises that there is an intrinsic need for renewable energy.

The need for an expanse in sources of renewable energy is recognised as being crucial in realising the aims and objectives of the 2008 Climate Change Act which requires carbon emissions to be reduced, from 1990 levels, by 26% by 2020 and by 80% from the baseline by 2050.

Para 17 of the National Planning Policy Framework (NPPF) maintains that encouraging the use of renewable resources, such as through the development of renewable energy, represents an overarching core planning principle. Para 98 goes on to state that applications for development relating to renewable energy should be approved if impact are, or can be made, acceptable. Potential impacts of the proposed scheme are discussed later in this report.

For the above reasons the development is considerd to accord with local and national policy in relation to Renewable Energy

RESIDENTIAL AMENITY
There are no residential properties immediately adjacent to the microgenerators. The only impact on neighbouring properties could be the noise of the trubines turning which could poptentially casue a nuisance to aprtments and occupants of a nearby mobile home park. The Councils mobile apartments above the shops on Beach Road to the southern microgenerators and new aprtmetns on the far side of the river on theThe nearest neighbouring residential properties are

Lower Farm Cottages and Flint Cottage which are approximately 130 metres and 150 metres to the west of the site respectively. In this case, it is considered that the impacts of the proposal upon the amenities of residents of these neighbouring properties would be minimised by the distances maintained and the proposed landscaping/screening.

A minor concern with regard to visual amenity is that the southern 3 microgenerators would rest on the riverbed at low tide and 3/4 of the mesh cages of the microgenerators would appear above the water line for a period of time.
The adverse effect on the visual amenity of the area and its secondary impact on tourism is not considered sufficient to be described as a significant impact because the microgenerators would be well below the river wall at low tide and there it other marine related paraphernalia including boats, pontoons and fishing equipment including lobster and crab cages which wouldmean the microgenerators would be unlikely to have a significant impact on the appearance of the area.

A condition could be applied to control the colour of the microgenerators which could mitigate any adverse impacts on the local area.

For the above reasons the development is considered to comply with parts ii,iii,iv and v of Policy GEN 7 -The Form of New development - Arun District Local Plan

BIODIVERSITY CONSIDERATIONS
An ecological report has been provided by the applicants which states that the impact of the microgenerators would represent a very low risk to ecological 'recepetors' including Marine Mammals Birds and Fish.

The only remark made is that the southern microgenerators woulc have a minor impact on migratory fish which swim up the margins of the river in the shallows at low tide because the cages of the microgenerators here would sit on the bottom of the river bed as do the marine vessels that are moored on the pontoons in this location.

The Council's Ecologist has assessed the application and raised no objection and the Environment Agency commented with regards to the potential impact on migrating eels at low tide subject to the inclusion of a condition to secure the proposed ecological enhancements.

TRAFFIC AND ACCESS
The mcirogenerator units which float will access and egress the river from the boat ramp at the Littlehampton Marina where the Saunders Energy industrial unit is located. The units will be moved around the river for position and maintenance by the Harbour Masters tug vessels or other similar craft

West Sussex County Highways have no objection to the proposal.

CONCLUSION
The use of the proposed sites for tidal microgeneration on the River Arun is supported by policies within the Development Plan and National Policy relating to commercial use of the river Arun and renewable energy developments. There are no sensitive or other designations of relevance on the site and the impact s off the development in terms of biodiversity, public safety and residential & visual amenity is considered acceptable.

It is considered that the information provided with the application demonstrates that the proposed renewable energy development is in accordance with local and national planning policy. It is therefore recommended that the application is approved subject to the following conditions.

PRINCIPLE OF DEVELOPMENT

Outside Built-up Area Boundary: The site lies in a countryside location outside the built-up boundary where the principle of development is considered unacceptable principle. Development Plan policies seek to exert a strict control over new development in the countryside to protect it for its own sake. Development will only be permitted in exceptional circumstances or where there is a strong justification for a countryside location. The Government's planning advice indicates that planning authorities should continue to ensure that the quality and character of the wider countryside is protected, and where possible enhanced.

HUMAN RIGHTS ACT

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 family and private 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 would have a neutral impact on 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).

RECOMMENDATION

APPROVE CONDITIONALLY

1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

2 The development hereby approved shall be carried out in accordance with the following approved plans;
Dwg no 10294 Rev1 - Southern Pontoon elevations and block plan
Dwg no 10308 Rev 1 - Southern River Wall elevations and block plan
Dwg no 10291 Rev2 - Drawing fro red bridge elevations and block plan
Dwg. Np. 463457/CIVIL/101 P2 - location plan for 3 microgenerators on pontoon and river wall near Pier Road.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy GEN 7 of the Arun District Local Plan.

3 No development shall be carried out unless and until details of the colour of the paint or finishing external materials of the mesh and entire microgenerator units have been submitted to and approved by the Local Planning Authority and the colour of paint/finishing materials so approved shall be used in the construction of the microgenerator units shall be retained in perpetuity and maintained in a tidy and uniform state.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality in accordance with policy GEN7 of the Arun District Local Plan.

4 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 assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.