

Recommendation Report for Planning Permission

REF NO: P/11/26/PL

LOCATION: Pagham Beach Amusements
1 Beach Road and 129 East Front Road
Pagham
PO21 4SL

PROPOSAL: Part change of use of existing amusement arcade to manager accommodation alongside associated extension and alterations. This application is in CIL Zone 4 and is CIL Liable as a new dwelling.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
SITE AREA	0.039 ha.
RESIDENTIAL DEVELOPMENT DENSITY (NET)	27 dwellings per hectare.
TOPOGRAPHY	Predominantly flat but the ground slopes slightly downward towards East Front Road.
TREES	None affected by the development.
BOUNDARY TREATMENT	The building abuts the highway on Beach and East Front Roads. It shares a party wall with the buildings to the rear but there is an existing fence/wall between the site and the bungalow adjacent on East Front Road.
SITE CHARACTERISTICS	Single-storey flat-roofed amusement arcade on the corner of East Front Road and Beach Road. There is no parking on the site but it is understood from the site's history that the family of the applicant own the private car park a short distance to the north.
CHARACTER OF LOCALITY	The site is part of the Pagham Beach Estate Area of Special Character where there is a predominance of detached single-storey residential properties.

RELEVANT SITE HISTORY

P/68/21/PL	Part change of use of existing amusement arcade to managers accommodation (resubmission following P/48/20/PL). This site is in CIL zone 4 & is CIL Liable as new dwelling.	Refused 20-07-21
P/48/20/PL	Part change of use of existing amusement arcade to manager's accommodation following approval of P/37/08	Withdrawn 17-08-20

to form separate dwelling at 129 East Front Road,
currently occupied by applicant.

P/93/14/PL	Part change of use of existing amusement arcade to manager's accommodation (Resubmission following P/107/10)	ApproveConditionally 23-02-15
P/107/10/	Part change of use of existing amusement arcade to manager's accommodation	ApproveConditionally 09-02-11

This application is another in a series of applications dating back to 2010 pertaining to the part change of use of the building to manager's accommodation. The prior applications and a summary of their outcomes are below.

P/68/21/PL - Part change of use of existing amusement arcade to manager's accommodation (resubmission following P/48/20/PL). Refused on grounds of flood risk and absence of a completed S.106 agreement related to Pagham Harbour.

P/48/20/PL - Part change of use of existing amusement arcade to manager's accommodation following approval of P/37/08 to form separate dwelling at 129 East Front Road, currently occupied by applicant. Withdrawn following conclusions related to flood risk.

P/93/14/PL - Part change of use of existing amusement arcade to manager's accommodation (Resubmission following P/107/10). Approved conditionally.

P/107/10/ - Part change of use of existing amusement arcade to manager's accommodation. Approved conditionally.

REPRESENTATIONS

Pagham Parish Council - No objection.

No representations from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Natural England - Further information required:

- This site lies within the Zone of Influence for recreational impacts on European (Habitats) Sites.
- Any net increase in housing would likely have a significant effect due to increased recreational pressure.

- The Local Planning Authority has a strategic mitigation scheme in place that Natural England considers effective in protecting site integrity.
- Further advice suggesting an Appropriate Assessment is still required to conclude whether the strategic mitigation scheme is sufficient alone.
- Further discretionary advice and advice relating to Impact Risk Zones for Sites of Special Scientific Interest (SSSI) given.

Environmental Health - No objection.

Environment Agency - Objection:

- The site lies within Flood Zone 3a which has a high probability of flooding.
- Notwithstanding the mitigation measures proposed, the risk to life and/or property from tidal inundation would be unacceptable if the development were to be permitted.
- The application does not demonstrate that occupants can remain safe for the lifetime of the development when allowances for climate change are taken into consideration.
- There is insufficient flood risk mitigation up to the design flood level and/or no specified arrangements for safe refuge during a flood event.
- The modelled flood depths in the design flood scenario are around 0.88 metres (m), and the proposed finished floor level is insufficient to provide safe occupation of the dwelling.

COMMENTS ON CONSULTATION RESPONSES:

Noted. Natural England - the applicant has completed and signed a S.106 Unilateral Undertaking to secure a financial contribution that mitigates the impacts of recreational pressures on designated site (Pagham Harbour). This is the strategic mitigation scheme referred to. Further discussion regarding habitats sites is covered within the relevant section of this report.

POLICY CONTEXT

Within the Built Up Area Boundary

CIL Zone 4

Within Area of Special Character

Flood Zone 3

Future Flood Zones + Climate Change (2075-2125)

Risk of Surface Water Flooding + Climate Change (2061-2125) (1 in 1000)

2km from SSSI (Bognor Reef and Pagham Harbour)

Pagham Harbour Access Management Zone A

Pagham Interim Development Framework

DEVELOPMENT PLAN POLICIES

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

DSP1	D SP1 Design
DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
DDM4	D DM4 Extensions&alter to exist builds(res and non-res)
ECCSP2	ECC SP2 Energy and climate change mitigation
EMPDM1	EMP DM1 Employment Land: Development Management
ENVSP1	ENV SP1 Natural Environment
ENVDM1	ENV DM1 Designated Sites of Biodiversity or geographical imp

ENVDM2	ENV DM2 Pagham Harbour
ENVDM5	ENV DM5 Development and biodiversity
HERSP1	HER SP1 The Historic Environment
HERDM4	HER DM4 Areas of Character
QESP1	QE SP1 Quality of the Environment
SDSP2	SD SP2 Built-up Area Boundary
TSP1	T SP1 Transport and Development
WDM2	W DM2 Flood Risk

OTHER STATUTORY PLANS:South Inshore and South Offshore Marine Plan 2018:

South Marine Plan Policy S-CC-1
 South Marine Plan Policy S-CC-2
 South Marine Plan Policy S-CO-1
 South Marine Plan Policy S-DIST-1
 South Marine Plan Policy S-ML-2
 South Marine Plan Policy S-MPA-1

PLANNING POLICY GUIDANCE:

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
SPD8	Areas of Special Character
PDS	Pagham Parish Council's Village Design Statement by PaghamPC

POLICY COMMENTARY

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

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is compliant with relevant Development Plan policies in that it would not cause demonstrable harm to the Area of Special Character, would not harm the amenities of neighbouring

residents and would not have an adverse impact on highway safety but conflicts with Development Plan policies regarding flooding.

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

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

OTHER MATERIAL CONSIDERATIONS

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

BIODIVERSITY NET GAIN

This application is not liable for Biodiversity Net Gain (BNG) under the de-minimis exemption.

CONCLUSIONS

PRINCIPLE

The site lies within the Built-up Area Boundary where the principle of development is acceptable subject to the consideration of relevant Development Plan policies in accordance with Arun Local Plan (ALP) policy SD SP2.

MARINE PLAN POLICIES

Despite being in close proximity to the shoreline, from review of the Marine Plans GIS map, there are no policies directly relevant to the site within the South Marine Plan. There are, however, policies which are indirectly relevant that are listed within the relevant policies section of this report.

The relevant policies of the Marine Plan generally require that impacts on the marine environment are (in order of preference) avoided, minimised, or mitigated. In particular, the relevant Marine Plan policies to this location seek to ensure public access, minimise greenhouse gas emissions, ensure that developments adapt to impacts arising from climate change, ensure uses coexist with each other, protect wildlife species, and reduce litter in the marine environment.

The proposal concerns the reduction of existing built footprint and the creation of a new dwelling in place of some existing commercial floorspace. It would not prejudice public access to the marine environment, does not involve a use that would result in the excessive or uncharacteristic production of greenhouse gasses for the area, and is not anticipated to result a likelihood of litter reaching, or have any adverse impact on, the marine environment. The proposal complies with the identified policies for the reasons outlined in the analysis of the proposal below unless conflict is otherwise identified.

LOSS OF COMMERCIAL FLOORSPACE

ALP policy EMP DM1 seeks to protect existing employment premises unless it can be demonstrated that the site is no longer required and is unlikely to be re-used or re-developed for commercial purposes or the existing location poses insurmountable environmental harm or amenity which cannot be satisfactorily resolved.

The site is a long-established commercial site that supports local tourism. There is no evidence or

suggestion that the existing use is no longer needed. While the proposal would result in the loss of a portion of the existing commercial floorspace, it is material that the proposal is to accommodate the manager (an employee) of the site. This would help ensure the manager is on-hand at all hours to run the business and/or resolve emergencies if required.

The proposal, does, by virtue of the loss of employment floorspace and lack of justification or evidence, conflict with ALP policy EMP DM1. However, the wider site would remain, and for the reasons and benefits outlined above, the proposal would benefit the ongoing viability and operations of the existing use which is supported and a valid justification for the proposal.

FLOOD RISK

The proposal lies within Flood Zone 3, would remain with flood zones for the expected lifetime of the development, and is only anticipated to become at greater risk with time and when accounting for climate change.

The site is not currently at risk of surface water flooding, though the surrounding streets are. The site itself would be at low risk of surface water flooding (1 in 1000) between 2061-2125 and when accounting for climate change. However, the submitted Flood Risk Assessment does dispute this, noting that the majority Beach Road adjacent remains outside of this extent, and is considerably lower than the levels on site.

The proposal is primarily a change of use, with a modest roof extension to provide additional internal height, and a reduction in overall footprint of the existing building.

Changes of use such as this do not require a Sequential Test (ST) for flood risk as outlined within NPPF paragraph 176 and footnote 62, nor do minor non-residential extensions. However, the proposal is neither a non-residential extension, nor solely a change of use. Therefore, a ST would generally be required. That said, it is material that the proposal results in a reduction of existing footprint, only a minor increase in height, and that the proposal is for on-site manager's accommodation.

Paragraph 11(d)(i) of the NPPF states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless...the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed.

While the proposal is for managers accommodation, it remains a residential dwelling. Arun District Council cannot currently demonstrate a 5-year Housing Land Supply, and as such, the presumption in favour of sustainable development (11(d)) is engaged.

It is unlikely that manager's accommodation for the site could be located elsewhere at lower risk of flooding while providing the same development need, and given the reduction in existing footprint and only modest increase in roof height required, the lack of a ST, in this instance, is not considered a strong reason for refusal.

As a ST has not been required, the Exception Test need not be applied. NPPG Paragraph: 032 Reference ID: 7-030-20220825 is clear, that it should only be applied as set out in Table 2 and only if the ST has shown that there are no reasonably available, lower-risk sites, suitable for the proposed development, to which the development could be steered.

ALP policy W DM2 and NPPF paragraph 170 confirm that where development is necessary in areas at risk of flooding, they should be made safe for their lifetime, without increasing flood risk elsewhere.

The footprint of the existing building would reduce as a result of the development, and surface water drainage would be accounted for as per the existing arrangements. As such, the proposal would not increase flood risk elsewhere.

The development has been supported by a Flood Risk Assessment, which has assessed on site flood risk, and concluded that when accounting for climate change and relevant allowances, and the 2125 timeframe, the development could anticipate internal flood depths up to 0.84m. This is a substantial hazard and represents danger to life. There is no safe refuge on site and mitigation measures primarily rely on evacuation of the site prior to the flood event to combat this level of risk. There is no certainty in the design flood event, when accounting for climate change, that the occupiers could or would have sufficient time to react to an Environment Agency (EA) flood warning, or that one may be received be that by virtue of technical fault or otherwise.

Additional occupier(s) at significant risk in this location, with no safe refuge or certainty that evacuation would be able to occur, would also put additional, undue pressures on, and endanger, emergency responders seeking to evacuate or respond to existing residents who are also at risk. NPPG Paragraph: 047 Reference ID: 7-047-20220825 states, amongst other things, that "Safety considerations can affect the overall design or acceptability of the development. Developers should seek to minimise reliance on emergency services to make development safe."

EA flood maps indicate the site is at low risk (1 in 1000) of surface water flooding when accounting for climate change and in the 2061-2125 cohort. The anticipated depths in this scenario are between 150-300mm. The Flood Risk Assessment disputes the extent indicated by the mapping and does not propose further flood risk mitigation to combat this risk as a result. The logic behind the dispute is acknowledged and appears logical, it is also noted that Paragraph: 002 Reference ID: 7-002-20220825 states that the 'design flood' event is taken to be the 1 in 100 pluvial flood event. In the design flood event, the development would remain outside of the surface water flooding extents even when accounting for climate change.

Consideration still needs to be given to the 1 in 1000 event, but in this instance, the Flood Risk consultant advised that they consider the site unlikely to fall within the future 1 in 1000 surface water flood risk extent when accounting for climate change, and the EA maps only identify a flood depth of 150-300mm. In the absence of expert advice to the contrary, Officers are minded concurring with the applicant's Flood Risk Consultant, but in any event, the risk identified by the EA maps is low and would not represent danger to life.

The EA have objected on the basis that the proposed mitigation measures are insufficient to ensure that the occupier/property would be safe for the lifetime of the development, that safe refuge is not available, and that there is an unacceptable risk to life. Officers concur with the concerns of the EA and find their objection to be sound and well-founded.

The development does not demonstrate that the occupiers would be safe for the lifetime of the development. There is an unacceptable risk to life and property, and consequent potential for increased pressures on emergency responders during a flood event in conflict with ALP policy W DM2, NPPF paragraph 170, the NPPG, and South Marine Plan policy S-CC-2.

PAGHAM HARBOUR AND BIODIVERSITY

The site lies within 2km of two SSSI. These are Pagham Harbour and Bognor Reef. Pagham Harbour is also a Special Protection Area (SPA). Given the nature and scale of the development, that the site is already developed and surrounded by existing built form, the Local Planning Authority have concluded that there would be no direct impacts on either of these sites and that the need for a further Appropriate Assessment has been screened out. The proposal is in accordance with ALP policies ENV SP1 and ENV

DM1.

There remains a likelihood of the development resulting in indirect adverse impacts by way of recreational pressures on the Pagham Harbour SPA and as such, it has been necessary to secure a financial contribution for the mitigation of these impacts by way of a signed and completed S.106 Unilateral Undertaking as part of this application. The Local Planning Authority are satisfied that this is sufficient to mitigate any adverse impacts on the SPA by way of recreational pressures and the proposal is in accordance with ALP policy ENV DM2.

The site is entirely existing built form and the proposal is exempt from Statutory Biodiversity Net Gain requirements under the de-minimis exemption. Nonetheless, ALP policy ENV DM5 still requires developments to achieve a biodiversity net gain. It also requires protected species to be accounted for where there is evidence of such species on site.

Given the site is currently entirely built form, the reduced building footprint and inclusion of a planter along the eastern boundary is sufficient alone to achieve a net gain in biodiversity on site and the Local Planning Authority have no evidence of protected species on site, nor reason to believe there would be any. The proposal is, therefore, in accordance with ALP policy ENV DM5.

CHARACTER, DESIGN, AND AREA OF CHARACTER

The proposal involves the reduction of the existing building footprint along the northeast section of the building. This reduction is to be replaced with a patio area, access, planter, and various amenities including refuse and cycle storage. The proposal also includes a modest upward roof extension with rooflights and the installation of residential openings along the northeast elevation and the northern end of the northwest elevations of the building.

The area is characterised by a variety of building types and designs. The existing building has a flat roof design, and would remain as such, albeit with a modest increase in height above the proposed accommodation. The building is prominent on the corner of East Front Road and Beach Road, but the physical changes proposed would have a minimal visual impact on the street scene since they are modest, and that the new fenestrations would be discretely located on elevations that are not street-facing and concealed between the existing building and its neighbours.

The application form identifies matching materials to the walls but introduces profiled metal sheeting for the roof and uPVC windows. The Design and Access Statement, however, states materials are to be retained or replaced on a like-for-like basis. The exact materials and the appearance are not clear, but the roofing would be hidden from view, as would the uPVC windows. UPVC windows would be agreeable in any event, given their prominence in the wider locality. The proposal consist of the building would remain subservient, and sufficiently integrated and sympathetic to the existing building.

The site lies in the Pagham Beach Estate Area of Character, which is dominated by single-storey, often detached, buildings, and informed by a strong linear pattern of development with unmade roads, informality and a distinct seaside character. The proposal would not result in any significant variance in the visual appearance of the building, preserving the character of the area, and is acceptable.

The proposal is in accordance with ALP policies D SP1, D DM1, and D DM4. Additionally, for these reasons, the proposal is also in accordance with ALP policies HER SP1 and HER DM4.

The reason for the refusal of this application pertains to flood risk concerns, and that the agent has suggested a future, amended submission may come before the Local Planning Authority, seeking to raise floor levels significantly. The agent did supply preliminary drawings of this to see if the amendments could be considered under this application, but the changes are significant and seek to address flood risk

concerns. This would result in the need for an amended FRA and a re-consultation with the EA and it was confirmed no such amendments will be accepted under this application. It was unclear that the preliminary drawings granted sufficient freeboard above predicted design flood levels to comply with EA standing advice. The applicant is advised that significant increases in floor height, and commensurate changes in roof height/general design changes, would need further consideration once under any future application.

PARKING

There will be no intensification in the use of the site and therefore, no increase in vehicle use leading to any impact on highway safety/convenience. Furthermore, no on-street parking spaces are proposed but the dwelling will be occupied by the manager of the existing amusement arcade and would be in regular, daily attendance of the site even if the application were refused. The Arun Parking Standards requires the provision of two car parking spaces and one cycle space for a dwelling of the capacity in this location.

While the proposal does not provide any car parking spaces, it does include cycle storage in the amenity area on the northeast side of the building which could be secured by way of condition. It is material that the occupier would already travel to/from the site regularly for work and it is understood from the history on this site, that the applicant is the intended occupier and that his family own a private car park a short distance to the north (where he is likely to currently park if he indeed has a car). Furthermore, the Arun Parking Standards states that a more flexible approach will be taken with schemes that incorporate flats and on sites close to urban centres. The proposal qualifies as a ground-floor flat and is in an urban centre.

The proposal is acceptable in respect of policies relating to highway safety and parking and is in accordance with ALP policy T SP1.

RESIDENTIAL AMENITY AND SPACE STANDARDS

The proposed accommodation exceeds the minimum internal area and dimensions of the Nationally Described Space Standards in accordance with ALP policy D DM2.

Where balconies are to be incorporated, the Arun Design Guide requires them to be at least 3sqm. It appears that 3sqm was found to be an acceptable minimum for the proposal under the previous application. It does not appear that this standard should be applied in this instance as the proposal does not include a balcony. It does, however, have a short patio area for its private amenity space.

While the proposal does not meet the typical requirements, it is material that it would provide a modest level of private amenity for its occupiers, and that the site lies a very short distance from the shoreline where outdoor amenity space is plentiful. Furthermore, the accommodation is and would be tied to the use of the site, for occupation by the manager of the site (currently proposed to be the applicant) to allow day-to-day running of the business. It would be difficult to provide a portion of external amenity space meeting the usual 10.5m depth standard without compromising the viability of the arcade. There would be an expectation of any occupier that external amenity space would be limited.

The proposal benefits from sufficient internal and external amenity in accordance with ALP policies D DM1, D DM2, and QE SP1.

The application states that there is no proposed change to the existing boundary treatment arrangements. The northeast boundary is currently absent of any boundary treatment, with the building abutting the shared boundary with No. 1A East Front Road. It would be necessary for a boundary fence to be installed along this boundary to ensure the new amenity area and openings on the northeast elevation do not result in inter-overlooking impacts with the side window of the neighbouring dwelling (No. 1A), which is understood to serve a lounge, and the rear garden of No. 1A. A condition securing a

sufficient boundary treatment and its details in this location would have been attached in the interests of residential amenity.

The proposed lateral reduction of the building would ensure there would be no unacceptably adverse impacts of overbearing or overshadowing despite the modest increase in the height of the building, certainly when considering the existing relationship of the building with its neighbouring properties.

Subject to condition, the proposal is in accordance with ALP policies QE SP1, D DM1, and D DM4.

As mentioned at the end of the character, design, and area of character section above, it is noted that the applicant likely intends to submit an amended application with an increased height to address flood risk concerns. The applicant will need to consider any subsequent impacts on neighbouring residential amenity ahead of any future submission, as different conclusions may be met during the assessment of any such application.

RENEWABLE ENERGY

ALP policy ECC SP2 requires that all new residential development including conversions and changes of use be energy efficient and incorporate decentralised, renewable and low carbon energy supply systems. The application does not mention or address this policy and therefore, a condition would have been required to secure the provision of decentralised, renewable and low carbon energy measures and ensure compliance with this policy.

COASTAL EROSION

The site lies in proximity to the coastline and in an area particularly sensitive to coastal erosion. Arun District Council is currently exploring whether the Pagham Beach Estate area should be classified as a Coastal Change Management Area (CCMA). As of 06/10/21, an interim framework for assessing planning applications on Pagham Beach Estate while the implications of a CCMA are explored was agreed. This sets limitations on the type of development that will be allowed.

The Pagham Interim Development Framework sets out various categories of development and outlines whether they will be permitted. From review of this application, the proposal currently falls within Category 4 as 'Reconstruction' whereby the proposal is using substantial portions of the existing building and is permitted where property level protection is employed where practicable. Various flood risk mitigation measures related to construction materials and techniques are outlined within the submitted FRA and could have been secured by condition. Albeit, following conclusions related to flood risk, these would be insufficient, but would remain an increase in property level construction.

The proposal is compliant with the Pagham Interim Development and NPPF paragraph 184.

The applicant should be aware that if a CCMA is completed and declared for this area ahead of any future submission, then this may impact the acceptability of the development. Officers have no specific timeframe as to when the CCMA may be completed.

RESTRICTIVE CONDITION

The applicant is seeking manager's accommodation on site as an ancillary use to the ongoing operations of the site. In 2011 and 2015, the two iterations of this proposal were approved subject to a condition restricting the occupation of the unit for the manager/other employee of the site, specifically referencing Pagham Beach Amusements.

NPPG Paragraph: 015 Reference ID: 21a-015-20140306 (last updated 06/03/14) states that: "Planning permission usually runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where development that would not normally be permitted may be justified on

planning grounds because of who would benefit from the permission... A condition limiting the benefit of the permission to a company is inappropriate because its shares can be transferred to other persons without affecting the legal personality of the company." It also provides an example of where a condition to limit the benefits of a planning permission to a particular person or group of people, but the example is not relevant in this case.

The proposed use is to be ancillary to the operations of the wider site and in terms of flood risk, the conclusion regarding the absence of a Sequential Test to support the application being acceptable is based on the development being occupied by a manager/employee of the site and that the dwelling is not simply a residential unit to be occupied by anyone. In the absence of a condition restricting the occupation of the unit by the manager/employee of the commercial unit on site, the absence of a Sequential Test and Exception Test would have also constituted a reason for refusal. As such, a condition to this effect would have been attached if the proposal was recommended for approval. Although, it would have been reworded compared to the previous approvals since the condition need not specifically relate to Pagham Harbour Amusements, rather, just the commercial premises at No. 129 East Front Road, and to allow for the occupation by manager/employee and their respective partner and resident dependants.

SUMMARY

The proposal has not demonstrated that the development would be safe for its lifetime in relation to flood risk, and there is an unacceptable risk to life and property. Further, in the event occupier evacuation is not possible or successful, the proposal would increase pressures on emergency response services seeking to rescue other individuals during the anticipated flood event. As such, the proposal is recommended for refusal.

HUMAN RIGHTS ACT

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

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

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

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

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

SECTION 106 DETAILS

A signed and completed S.106 Unilateral Undertaking has been secured under this application to provide a financial contribution towards the mitigation of adverse impacts due to recreational pressures on the Pagham Harbour SPA.

RECOMMENDATION

REFUSE

- 1 The development has not demonstrated that the development would be safe from flood risk for the lifetime of the development when taking into account the effects of climate change. There is an unacceptable risk to life and property, and consequent potential for increased pressures on emergency responders during a flood event in conflict with ALP policy W DM2, NPPF paragraph 170, the NPPG, and South Marine Plan policy S-CC-2.
- 2 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. It has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. The Local Planning Authority has clearly set out, within its report, the steps necessary to remedy the harm identified within the reasons for refusal - which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.