

Recommendation Report for Planning Permission

REF NO: P/43/25/PL

LOCATION: Land to the west of Inglenook Hotel
255 Pagham Road
Nyetimber
PO21 3QB

PROPOSAL: Demolition of existing storage buildings and the erection of 6 No dwellings and associated works. This application affects the setting of listed buildings, is a Departure from the Development Plan and is in CIL Zone 5 and is CIL Liable as new dwellings.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	This application is seeking planning permission for the erection of 6 No dwellings and associated works, following the demolition of existing storage buildings.
SITE AREA	2500sqm.
RESIDENTIAL DEVELOPMENT DENSITY	24 dwellings per ha.
TOPOGRAPHY	Predominantly flat.
TREES	Two TPOs on site - neither of which will be removed. TPO/P/2/20 comprises G1 to the western boundary, which includes 2 No. Pedunculate Oak and 2 No. Lime. These trees are referred to as T4, 6, 7, and 8 in the application. TPO/P/2/15 comprises T2 (Poplar) on the southern boundary. This tree is referred to as T3 in the application. Two small category C trees are to be removed (T5 and T1).
BOUNDARY TREATMENT	1.8m to 2m high close boarded timber fencing to all boundaries. Mature and established trees and hedging to the north, west and south boundaries.
SITE CHARACTERISTICS	Residential character. The site is occupied by five static caravans, used as accommodation for hotel staff for Inglenook Hotel to the east. It is understood this use was first established in the 1980s.
CHARACTER OF LOCALITY	Predominantly residential. The site is abutted by residential properties to the north, west and south; those to the north being static caravans in permanent residential use. Inglenook Hotel, a Grade II listed building is situated to the east, with further retail and commercial uses to the south east.
None of relevance to this application.	

REPRESENTATIONS

Pagham Parish Council - Objection:

- The land currently supports a wide variety of wildlife as it includes hedgerows and trees, some of which are covered by TPOs. Concerned these trees can be preserved longer term, as the trees form part of private gardens.
- Serious concerns regarding biodiversity net gain. No firm arrangements have been made to secure off site mitigation.
- No proposals for solar panels or grey water recycling on site.
- Overdevelopment at detriment to the setting of the Listed Building. These buildings are too close.
- The parking is inadequate. There is an under provision and it cannot be assumed that residents will use the garages for parking.
- The site does not deliver affordable homes for the area.
- Proposes to use the surface water drainage facility from Platinum Gardens. No evidence has been provided to confirm that owners of this facility will allow a connection.

30 letters of objection received from nearby occupiers. General comments concern the following:

- The existing driveway from the side of Inglenook Hotel should be used.
- Not enough local infrastructure/amenities (doctors, hospitals, schools etc) for additional housing.
- Loss of green space.
- Harm to trees, wildlife and biodiversity. Threat to existing TPO trees.
- Harm to neighbouring amenity from impact to privacy and noise pollution.
- Departure from the Development Plan.
- Impact to a grade II listed building.
- Harm to the character and appearance of the area.
- Impact to transport infrastructure, increased traffic, loss of parking spaces, lack of parking provision and use of an existing access which is not designed to support the proposed development.
- Platinum Gardens is a privately owned road funded by and maintained by the properties on the estate. No consultation has been had with residents to use this road, and no permission has been granted by owners. Legal implications are queried.
- Overdevelopment of the site. The dwellings are far larger than the existing caravans on site.
- Safety concerns from the proposed access, increased traffic and blind corners.
- The construction of new homes has a negative and direct impact on existing homes.
- No plans in place to mitigate the loss of biodiversity.
- Impact to existing drainage and flood protection arrangements. Assurance is sought that proper provision can be made to ensure the existing arrangements are not negatively impacted.
- Limited understanding as to why further houses are needed in this location.
- Impact to health and safety.
- Impact on key workers and accessibility of the site for emergency vehicles.
- Vehicle trip calculations are grossly underestimated.
- Query as to whether there is a swept path analysis for refuse trucks.
- Provisions for a footpath to the Inglenook should not granted to keep the site safe from crime.
- Concerns the bedroom capacity will be increased through a S73 if permission is granted.

COMMENTS ON REPRESENTATIONS RECEIVED:

Parish Council comments noted, and will be addressed in full within the conclusion below. BNG provision, and climate infrastructure (solar panels etc) would be secured through a condition. The site does not meet the threshold requirement for affordable housing to be provided (minimum 11 dwellings).

Comments raised within the representations are addressed below. Concerns regarding the use of the access from Platinum Gardens and legal ownership is not a material consideration for planning, and remains a private matter. For the purposes of due diligence, clarification has been sought from the agent to confirm relevant permissions are in place to use this access. Confirmation has been provided that the

access is within the ownership of the applicant. No further evidence has been provided from nearby occupiers to dispute this.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

ADC ECOLOGY:

No objection subject to conditions.

ADC ENVIRONMENTAL HEALTH:

No objection subject to conditions (including pre-commencement)

ADC CONSERVATION OFFICER:

No objection. No harm identified to the setting of the designated heritage asset, and no harm to their significance.

ADC TREE OFFICER:

No objection subject to conditions (including pre-commencement)

WSCC HIGHWAYS:

No objection subject to conditions.

NATURAL ENGLAND:

Appropriate assessment required to determine impacts on Pagham Harbour.

ADC DRAINAGE ENGINEERS:

Objection. The application fails to adequately demonstrate that the proposal will not increase flood risk in the area.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted. Conditions would have been applied were permission being granted (pre-commencement conditions would have additionally been agreed with the agent / applicant). A S106 agreement and financial contribution had been secured during the lifetime of the application to address the comments from Natural England, and mitigate any recreational impacts on Pagham Harbour.

POLICY CONTEXT

Outside Built Up Area Boundary

TPO

Pagham Harbour Zone B

2km Buffer for Site of Special Scientific Interest

Surface Water Flooding

River and sea without defences 1 in 200 (0.5% AEP) (Future Flood Zone 3a)

CIL Charging Zone 5

DEVELOPMENT PLAN POLICIES

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

CSP1	C SP1 Countryside
DDM1	D DM1 Aspects of form and design quality

DDM2	D DM2 Internal space standards
DSP1	D SP1 Design
ECCSP1	ECC SP1 Adapting to Climate Change
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVDM1	ENV DM1 Designated Sites of Biodiversity or geographical imp
ENVDM2	ENV DM2 Pagham Harbour
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
ENVSP1	ENV SP1 Natural Environment
HDM1	H DM1 Housing mix
HERDM1	HER DM1 Listed Buildings
HERSP1	HER SP1 The Historic Environment
HSP1	HSP1 Housing allocation the housing requirement
QEDM1	QE DM1 Noise Pollution
QEDM2	QE DM2 Light pollution
QESP1	QE SP1 Quality of the Environment
SDSP1	SD SP1 Sustainable Development
SDSP2	SD SP2 Built-up Area Boundary
TDM1	T DM1 Sustainable Travel and Public Rights of Way
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
WSP1	W SP1 Water

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

PDS	Pagham Parish Council's Village Design Statement by PaghamPC
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.

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 conflicts with relevant Development Plan policies in that insufficient information has been provided to confirm and ensure that the surface water can be adequately drained without increasing flood risk elsewhere.

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 liable for Biodiversity Net Gain (BNG) and the following is a summary of the key points:

- The development would result in the loss of 0.29 Habitat Units, and 0.14 Hedgerow units (5.53% and 100%)
- 0.81 Habitat Units and 0.15 Hedgerow Units need to be provided offsite to meet the 10% BNG requirement. This would be secured through a condition.

CONCLUSIONS

PRINCIPLE

Policy C SP1 of the Arun Local Plan (ALP) states residential development in the countryside outside the Built-Up Area Boundary (BUAB) will not be permitted unless it accords with policies in the Plan which refer to a specific use or type of development. None of these relate to the proposal. Policy SD SP2 states development should be focused within the BUAB. The proposal conflicts with ALP policies C SP1 and SD SP2.

The provisions of Policy C SP1 precludes residential development on the application site. The principle of development on the site is, thereby, contrary to the development plan.

The NPPF is an important material consideration in determining applications. As the Council cannot demonstrate a 5-year Housing Land Supply Policy C SP1 of the ALP is out of date and the presumption in paragraph 11(d) (the so called "tilted balance") applies.

Whilst outside the BUAB, the site abuts this boundary to the south and east, and is adjoined to the east

of an existing residential development which also falls outside. This site is in an infill site between residential development, both falling within and outside the BUAB. As a result, though contrary to the objectives of C SP1, the location would reflect the pattern of development in the area, and would not appear unduly out of place within the spatial composition of Pagham. Although subject to the 'tilted balance' it is necessary to recognise that this would be a natural extension of existing developments in the area.

The planning balance and consideration of Para 11d(ii) of the NPPF is assessed below.

PREVIOUSLY DEVELOPED LAND

Paragraph 125(c) of the NPPF states that, within planning decisions, substantial weight should be given to the value of using suitable brownfield land within settlements for homes and other identified needs. Annex 2 gives the definition for brownfield (referred to as 'Previously Developed Land'). In this instance, the site falls partly under the definition: 'Land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land'. Caravans are not permanent structures

The weight attributed to this brownfield development is discussed further below within the 'Planning Balance' section.

LAYOUT, APPEARANCE AND CHARACTER:

Policy D SP1 of the ALP states development should seek to make efficient use of land but reflect the characteristics of the site and local area. ALP policy D DM1 looks at aspects of form and design quality, including character, appearance, density, scale, innovation, adaptability, residential amenity impact, trees, and crime prevention. New buildings should be harmonious and successfully integrate with the surrounding environment.

The proposal comprises 3 pairs of analogous semi-detached dwellings (6 dwellings total); all with hipped roofs, and gable end projections. All plots are positioned in uniform line, running west-east across the site; each with parking and garden space to the front elevations, abutting a no through access road. Though sharing the same elevational design and height (a ridge height of approximately 9.5m, and eaves 5.4m), each pair varies slightly from one another. Plots 1 and 2 each comprise a footprint of approximately 70sqm, and a uniform brick materiality. Plots 3 and 4 are marginally larger, each having a footprint of 75sqm, and include weatherboarding at first floor to all elevations. Plots 5 and 6 comprise the largest footprints; each including an attached single storey garage. This results in a footprint of 95sqm. These plots share the same brick materiality as Plots 1 and 2, with the sole difference in their front elevations being the inclusion of the clipped gable roofed garages to the side. All plots include a single storey rear projection with flat parapet roof and skylight. Plots 1 and 2 have a projection with a marginally smaller width than the other dwellings.

In design terms the dwellings reflect the prevailing style and character of neighbouring dwellings and would not be out of keeping. They are slightly set back from the building line and the layout reflects that of Platinum Gardens and appears a natural extension of that development. The scale and design is harmonious with the street scene. The reduced roof style results in less bulky design than Platinum Gardens and provides visual interest.

The development has a density per hectare (dph) of 24. Part G of the Arun Design Guide (ADG) sets out appropriate density ranges for building typologies in different locations within the district. For semi-detached dwellings in a village settlement, the dph should range between 15-25. Whilst at the higher end, the proposed density would fall within this range. The density of neighbouring sites comprises

22.5dph for Platinum Gardens, and 28.6dph for Spinnaker View. 24dph falls within a similar density range as its surroundings, and subsequently is an appropriate density for this location.

The layout of the dwellings is balanced, and does not appear as an overly dense or crowded overdevelopment of the site. The location of the access road to the front of the buildings provides modest sized front gardens and driveways. This creates a relief between the road and front elevations, which helps to ensure the street scene does not appear unacceptably urban or enclosed, or overly car dominated. As a result, the overall design, appearance and layout of the 6 dwellings is appropriate for the site, and would result in a street scene with good visual amenity.

The site is appropriately screened from the surrounding area, and as such would only have impact on the visual amenity of Platinum Gardens to the west, and parts of Spinnaker View to the south and south-west. It will not be possible to view the development from the street scene of Pagham Road; and as such there will be no harm to the character and appearance of this older part of Pagham. As a result of the large mature trees along the northern boundary, visibility within Mill Farm Estate will be limited. Should this boundary treatment be removed in future, the rear elevations of the proposed development will be visible from this site to the north. Though this will have some impact on the street scene, it is important to note that the rear and side elevations of the dwellings in Platinum Gardens now form an established part of the wider setting of Mill Farm, and are visible from its street scenes. These dwellings have little screening. As such, were screening removed from the proposal, the visibility of the rear elevation of 6 more dwellings will not be out of keeping with the existing surroundings, and will not be unacceptably harmful to the visual amenity of this neighbouring street scene.

The proposal is harmonious in character and design with its wider context, and would not result in built form that appears incongruous within this location. The development is in accordance with ALP policy D DM1 and D SP1, the Pagham Design Statement, ADG, and the NPPF.

RESIDENTIAL AMENITY / QUALITY OF ENVIRONMENT

Policy QE SP1 (ALP) requires development to ensure it does not have a significantly negative impact on residential amenity. Policy D DM1 (ALP) requires development to have a minimal impact to users and occupiers of nearby property and land.

The ADG deals in part H.04 with separation distances between habitable rooms: Back to Back: min. 21m between habitable rooms of properties or to existing buildings. Back/Front to Side: min. 14m between habitable rooms and side gable of adjacent property. Front to Front: min. 16m between habitable rooms of properties facing each other. Back to Boundary: min. 12m between habitable rooms and site boundary to existing landscaping.

All plots retain a front to back separation distance from the dwellings to the south by a minimum of 30m. As a result, the dwellings to the south will not be subject to unacceptable overbearing, overshadowing or overlooking. The ADG does not set side to side separation distances; though there will be a separation of 12m between the closest proposed dwelling (Plot 1) and No. 1 Platinum Gardens to the west. No.1 Platinum Gardens and Plot 1 both have windows on their side elevations which will face onto each other. As such, whilst there is an adequate separation, a condition would have been applied below requiring the bathroom window of Plot 1 to be obscure glazed. This is to preserve the existing amenity and privacy currently experienced by No.1, and prevent any perceived overlooking between these two dwellings.

The proposed dwellings are in minor conflict with the minimum back to back distances set by the ADG. To the north is Mill Farm Estate, comprising single storey park homes which abut the rear boundary of the site. The closest homes, Nos. 5 and 7 Mill Farm Drive, will be situated to the rear of Plots 1-4. No. 7 will be 20m from the rear building line of Plot 1 and 2; and No. 5 will be 16.5m from Plots 3 and 4.

However, it must be noted that, as this distance is single storey to single storey, the amount of harm posed to residential amenity will be negligible, as both properties will be screened by boundary treatments. The harm therefore only increases when accounting for the first floor of Plots 1-4. When accounting for the separation distance between the first floor and elevation of No.7, Plots 1 and 2 are 23m away. This exceeds the minimum 21m set by the ADG, and as such are acceptable. Plots 3 and 4 will be 20m from the rear elevation of No.5. This only falls 1m short of the minimum 21m; and as these properties will be screened heavily by retained trees, the harm to residential amenity from overbearing, overshadowing and overlooking will be minimal. As such, this shortfall is acceptable.

The introduction of 6 No. dwellings to this location will result in an increase in noise pollution and general disturbance for existing residents. This noise will amount from individuals and households within the dwellings, use of garden spaces, individual or group movements to and from the dwellings, and vehicular movements. The site itself is already in use as residential accommodation, and as such this form of noise pollution already exists on the site; though in lower intensity than that proposed. Whilst there will be a cumulative impact through the population increase on the site, it must be acknowledged that this site is surrounded by residential development to three sides, and The Inglenook to the east. These surrounding uses all produce their own noise, and comprise a larger population / number of households than the proposed site. Subsequently the creation of 6 No. new dwellings will not create a substantial nor demonstrable amount of disturbance that is incomparable to the existing noise produced within this area, and will rather add to the existing background noise of the surrounding sites. This will not have an adverse impact on the quality of the environment, nor residential amenity.

The proposal is in accordance with ALP policies QE SP1 and D DM1.

SPACE STANDARDS

Policy D DM2 of the ALP requires internal spaces to be an appropriate size to meet the requirements of all occupants and their changing needs. Section J.08 of the ADG re-iterates the need to comply with the Nationally Described Space Standards (NDSS).

The NDSS requires that for 3 bed, 5 person 2 storey dwellings, a Gross Internal Floor Area (GIA) of 93sqm must be provided. All single bedrooms must have a minimum GIA of 7.5sqm and be at least 2.15m wide. Double bedrooms must be at minimum 11.5sqm.

The proposed dwellings all meet the minimum bedroom sizes for a 3b, 5p unit, and comprise the following total GIA:

- Plots 1 and 2 = approximately 106sqm
- Plots 3 and 4 = approximately 110sqm
- Plots 5 and 6 (excluding garage space) = approximately 110sqm

All plots exceed the minimum GIA of 93sqm, in compliance with ALP policy D DM2.

The ADG includes guidance and criteria on several relevant matters including distances between dwellings, gardens, defensible space, and sunlight & daylight levels. Paragraph H.04 of the ADG advises that outdoor amenity spaces should be of an appropriate size and shape and be usable and enjoyable. It states rear gardens should have a minimum depth of 10.5m and buildings should be set back by 2m from the plot boundary to mark defensible space.

All plots are afforded garden depths exceeding 10.5m, and front gardens / defensible spaces exceeding 2m. This accords with the minimum requirements set out in the ADG.

HIGHWAYS, PARKING AND ACCESS

ALP Policy T SP1 seeks to ensure that development: provides safe access on to the highway network; contributes to highway improvements & promotes sustainable transport, including the use of low emission fuels, public transport improvements and the cycle, pedestrian, and bridleway network.

Arun District Council adopted a Parking Standards SPD (Jan 2020). Principle 1 2.12 stresses that parking provision should be sufficient to accommodate demand whilst exploiting the potential for sustainable travel, minimizing adverse effects on road safety, and avoiding increased on-street parking demand. Principle 2.13 advises: 'If parking could reasonably be expected to take place in existing streets, then it will be necessary to demonstrate through a parking capacity survey that there is sufficient capacity to accommodate the expected parking demand.'

The proposal is for 6 no. 3 bed dwellings in Zone 2. This attracts the requirement for 2 parking spaces per unit, alongside 1.2 visitor parking spaces (20%). As a result, a minimum total of 13.2 parking spaces must be provided on site. 14 spaces are provided on site, comprising 13 allocated spaces, and 1 visitor space. Whilst 2 visitor parking spaces would be preferred, it is considered that the parking quantum is sufficient, and would not result in detrimental impact to the highway amenity of neighbouring residents.

The development is proposing a new access, extending from an existing junction and access road in use by Platinum Gardens. This access would result in the removal of an existing green verge and fence to the east of No.1 Platinum Gardens. Significant concerns have been raised about the introduction of this new access, and connection to the existing turning. One main issue concerns ownership permissions; this is not a matter for planning and is a private matter. The applicant has declared ownership and permission to this access, and therefore it is not within the jurisdiction of the planning department to require anything further in respect of this matter. Other issues concern this existing access not being designed for use by six more dwellings, and the harm posed to safety and amenity of other road users, and nearby residents. Traffic and vehicle trip calculations have also been raised as an issue, both within the immediate roads, and wider areas.

The development has been accompanied by a transport assessment, and this has been reviewed and assessed by WSCC Highways, who act as Local Highway Authority. WSCC have raised no objection to the works in respect of highway safety, and have concluded that the proposal would not have a severe impact on the operation of the highway network. No capacity concerns have been raised, and it has been determined that the access to the site is considered to be of sufficient geometry to accommodate the level of vehicular activity. Sightlines along Pagham Road have also been considered acceptable.

As the issue of highway safety has been assessed by WSCC, and found to be acceptable, the LPA raise no further issue with this matter. In respect of highway amenity, it is acknowledged that the increase in vehicle presence of up to 14 cars moving from and on to the site, will result in some impact to existing residential dwellings, through a minor increase in congestion and general disturbance. Given the scale of the development, and the proposed vehicle trip generation, this will not have a demonstrable impact on amenity, and is not of a level of harm to amenity which would justify refusal on these grounds.

In accordance with the Arun Parking Standards, it would be required that each dwelling provide 2 secure and covered cycle parking spaces (12 in total), and an EV charging point. Were permission being granted, conditions would have been applied requiring the installation of these provisions.

The development will not have an adverse impact on highway safety, amenity, parking, nor the operation of the highway network, and is in accordance with ALP policy T SP1, the Arun Parking Standards, and the NPPF.

HERITAGE ASSETS

The site is within the setting of listed buildings. This comprises the Inglenook Hotel, a Grade II Listed Building dated C18 or earlier; and the group of Four Barns at Mill Farm, Grade II Listed and all C18.

Para 207 of the NPPF requires the identification of the significance of the heritage asset affected by a proposed development. The heritage assets in this case derive their significance from their architectural and historical interest.

Para 208 requires the LPA consider the significance of the impact upon that heritage asset. Both heritage assets are now appreciated in a suburban context, with a significant amount of modern development around them. Inglenook in particular is best experienced and enjoyed from its front elevation, as seen from Pagham Road. The proposed development will not be visible from this street scene, and as such will have no impact on the significance of this principal and historic elevation. There are many modern additions to the rear of Inglenook, which are harmful to the overall significance and interest of this building. The development would primarily be visible from within the context of the rear elevation and curtilage of Inglenook, and as such appreciated within the context of these existing and inappropriate additions. It is therefore considered that the existing additions are more harmful to the significance of this asset, than the proposed development. Both assets are additionally screened by existing mature hedging and trees, and as such visibility of the development from the context of both assets will be limited. As such, it is determined that the proposal is reflective of existing recent development within the wider setting of the assets, and would not be unacceptably out of character to cause harm to the significance or setting of either asset.

It is therefore concluded that the development will not result in harm to the setting of designated heritage assets, and will not harm their significance. As such, it is not necessary to consider the public benefits of the scheme, and can be resolved that the development is acceptable for this historic location. The development is in accordance with ALP policy HER SP1 and HER DM1, and the NPPF.

FLOOD RISK AND DRAINAGE

Paragraph 11(d) of the NPPF states 'where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date (including for applications involving the provision of housing where a 5-year HLS cannot be demonstrated), planning permission should be granted unless (i) the application of policies in the NPPF that protect areas or assets of particular importance provides a strong reason for refusing the development proposed.

Paragraph 11(d)(i) of the NPPF refers to Footnote 7 which states 'The policies referred to are those in this Framework (rather than those in development plans) relating to... areas at risk of flooding or coastal change.'

In respect of the criteria forming a 'strong' reason for refusal, the Inspector for a recent appeal decision (APP/V2255/W/24/3350524) stated that 'a 'strong' reason for refusal based on flooding must, to my mind, go beyond mere technical conflicts, even if they are important. There must be substantive risks and harms that go beyond policy'.

Footnote 63 of the NPPF states 'A site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3. In Flood Zone 1, an assessment should accompany all proposals involving:... land identified in a strategic flood risk assessment as being at increased flood risk in future; or land that may be subject to other sources of flooding, where its development would introduce a more vulnerable use'.

Paragraph 174 of the NPPF pertaining to flood risk states 'the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding'. Paragraph 175 furthers this, and states 'the sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk)'.

Policy W SP1 of the ALP states 'The Council will also support development that... is appropriately located, taking account of flood risk and promotes the incorporation of appropriate mitigation measures...'.

Policy W DM2 of the ALP requires all proposals to satisfy the following criteria.

- a. The sequential test in accordance with the National Planning Policy Guidance has been met.
- b. A site specific Flood Risk Assessment demonstrates that the development will be safe, including access and egress, without increasing flood risk elsewhere and reduce flood risk overall.
- c. The sustainability benefits to the wider community are clearly identified.
- d. The scheme identifies adaptation and mitigation measures.
- e. Appropriate flood warning and evacuation plans are in place; and
- f. New site drainage systems are designed to take account of events which exceed the normal design standard i.e. consideration of flood flow routing and utilising temporary storage areas.

The Flood Map For Planning, which provides current EA data on flood risk, identifies under the 'Flood Zones with Climate Change' layer that the footprints of plots 5 and 6, and the site access, will be subject to flooding within the lifetime of the development (from 2070 onwards). This subsequently triggers the need for a Site-Specific Flood Risk Assessment, Sequential Test, and if found to be necessary, an Exception Test.

The development has been accompanied by a Flood Risk Assessment and Drainage Strategy, and a Sequential and Exception Test; and has been subject to two consultations with the ADC Drainage Engineers. Both attempts to address drainage engineers comments has resulted in an upheld objection.

The site is only subject to flooding as a result of climate change from 2070. This future flood risk will be from tidal flooding, ignoring the benefits of any existing flood defences, and will only affect the access and egress from the site, and footprint of the ground floor of Plots 5 and 6. FFL is to be set at 6.15m. Given the similar ground levels of the external areas, it is unlikely that the FFL height would be sufficient on its own, should the extents of climate change flooding come to fruition within the lifetime of the development in an extreme event. Minimal flood risk management has been proposed within the FRA, relying only on safe access and egress, and flood warning systems. In the extreme event identified, safe access and egress would not be possible for all residents, and as such it would be required that safe refuge be found within the dwellings until the flooding has subsided.

All dwellings are two storeys, with all bedrooms at first floor. As such, in the event of flooding, there would be limited possibility that any residents are asleep at ground floor, or would not be able to seek safe refuge at first floor. The refuge at first floor would be sufficient for providing safe shelter for residents until the flooding subsides, or rescue services reach the dwelling. As such, the risk of flooding to residents would not be such that life or property on the site would be unacceptable, nor result in significant harm to warrant refusal on this ground alone.

A sequential test has accompanied the application, and officers are content that the parameters set out

within this test are sufficient. In accordance with Para 027a of the PPG, the area of search for non major housing should not extend beyond an individual village and its immediate neighbouring settlements. The Sequential Test has subsequently searched Pagham, West Aldwick, East Aldwick, and Bersted wards of Bognor Regis. This search area was agreed with the applicant. The following criteria were set:

- Sites at lower risk of flooding
- Site capacity for 5-7 dwellings, including multiple smaller sites adjacent to one another to allow for combined delivery
- Reasonably available
- Suitable for residential development

61 potential sites were searched, and checked against the criteria. It was found that none of these sites were sequentially preferable to the proposed site, and as such the Sequential Test was found to have been passed. As such, in accordance with Table 2 of the PPG, an Exception Test was also undertaken. This identified the following:

- a. Wider sustainability benefits - addition of six dwellings, economic benefits during the construction phase, CIL contributions, economic and social benefits for the local area as a result of additional residents.
- b. Safety of development within its lifetime, taking account of vulnerability, without increasing flood risk elsewhere, and reduction in flood risk overall - the development has been accompanied by a Drainage Strategy that details that the proposal will remain safe for its lifetime and will not increase flood risk elsewhere.

It is agreed that sufficient evidence has been provided to demonstrate that the proposal will remain safe for its lifetime, flood risk to future residents is acceptable, and the site will not increase flood risk elsewhere. This is in consideration of the flood risk posed by climate change only. However in consideration of drainage of the site, it is not considered that criteria (b) has been satisfied, and it is not agreed that it has been sufficiently evidenced that the site will not increase flood risk.

The Drainage Strategy and associated information has been subject to two consultations with the ADC Engineers. The latest response (dated 28/10/25) identifies outstanding conflicts with three standards, comprising Interception Drainage, Extreme Rainfall and Flooding, and Biodiversity. Additional information was received from the agent following receipt of these comments, however this information has not been accepted, in line with Arun policy adopted under the Customer Advice Note, and lack of confidence that a third consultation would guarantee withdrawal of the engineers objection.

Interception drainage:

It was found by the engineer that the applicants designer had not provided a formal assessment of interception drainage to demonstrate how the national standard is being achieved. It remains unclear how interception will be accommodated within the proposed scale and layout of the development.

Extreme rainfall and flooding:

The proposed discharge rate do not accord with the national standards for SuDS, nor are calculations provided to demonstrate that surface water volumes are not being increased post-development as suggested by The SuDS Manual. Therefore, it should be assumed that flood risk may be increased by the proposed design and discharge rate.

The engineer is not in agreement with the designer that the access road can be free-draining. The groundwater levels are high enough that they may penetrate the subbase of the access road. Insufficient depth of unsaturated ground is provided between the base of the road and the peak groundwater level. This means that surface water will not be adequately treated. Furthermore, the infiltration potential of the

site has not been demonstrated (due to high groundwater), therefore there is a risk that the access road will flood.

The ADC engineer stated: 'The designer states that the construction methods are dictated by the constraints of the site with regards to the existing trees. However, these constraints are a product of the access road location within the tree root protection zone of an offsite poplar which is the subject of a tree preservation order (TPO). The layout of the development has not been approved, and this conflict should be satisfactorily addressed so that the road is drained in a manner that does not increase flood risk, ideally to the satisfaction of the tree officer. The constraints of the site and this potential conflict should have been considered early in the design process, rather than sustainable drainage requirements being compromised.'

Biodiversity:

It is inefficient and not ideal for ecology and SuDS requirements to be considered separately. Where BNG requirements allow for biodiversity benefit to be provided offsite, SuDS requirements do not. There is a less robust measurement, however, there is an expectation that the SuDS incorporates biodiversity benefit, and it makes sense for this to contribute to the biodiversity net gains (BNG) of the development. The designer has evidenced no demonstration of how biodiversity benefits are provided by the SuDS.

All of the above has resulted in the objection being maintained. It has not been sufficiently evidenced that the development can be adequately drained, and will not increase flood risk elsewhere. This has significant implications on the requirements of the Exception Test, of which this fails to meet the requirements of criteria (b), and the wider requirements of ALP policies W DM2 and W DM3, the NPPF and PPG.

It is necessary for planning permission to only be granted where adequate assessment has been undertaken to ensure that flood risk will not be increased by the development, and a sustainable drainage solution can be brought forward. Reliance on conditions to resolve outstanding matters is not appropriate in this instance, as there are a number of factors which may result in the condition becoming non-dischargeable. This results in the scheme creating uncertainty that the development could go ahead without increasing flood risk elsewhere, in direct conflict with ALP policy W DM2 and W DM3, and the NPPF.

BIODIVERSITY

The proposal falls within Pagham Harbour Zone B, and would result in some recreational pressures on the Pagham Harbour SPA. In accordance with ALP policy ENV DM1, and request of Natural England, an Appropriate Assessment is required to assess the potential impacts to the SPA. As explained further below, this development is subject to financial contribution to alleviate recreational pressures on Pagham Harbour. This is considered acceptable for the scale of the development. A full HRA has not been undertaken, but this would detail the reasoning as to why the development would not have significant impact, and financial contribution would be sufficient. This would have been undertaken were permission being granted.

Policy ENV DM5 of the Local Plan requires that development schemes seek to achieve a net gain in biodiversity and protect 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).

Biodiversity Net Gain for small sites came in on the 2 April 2024, requiring all sites provide 10% BNG on or off site, unless exempt. This development is not exempt, given it will result in the loss of more than 25sqm of on-site habitat, and will result in the creation of 6 dwellings which are not classified as self-

build.

The application has been accompanied by a BNG Metric and Preliminary Ecological Appraisal. This has been reviewed by the ADC Ecologist, who raises no objection subject to conditions. The BNG Metric details the loss of 5.53% of Habitat Units (0.29 units), and 100% of Hedgerow Units (0.14 units). 0.81 Habitat Units and 0.15 Hedgerow Units would therefore need to be provided to meet the 10% BNG requirement. The development has been shown to not be able to deliver the required units on site, and off-site provision will be required. This is either through the purchasing of credits, or creation of off-site units. Were permission being granted, off-site BNG provision would have been conditioned through a BNG Plan condition.

The PEA has assessed impacts on protected species, and identifies no impacts. A precautionary Badger survey would be required 6 weeks before commencement of any works. Within the PEA, the following ecological mitigation measures are proposed:

- Bat friendly lighting;
- Maintaining the grass sward height of less than 10cm to deter reptiles;
- Retention of trees and hedges;
- Installation of bat and bird boxes.

The above measures would have been secured via condition. The ADC Ecologist has also requested that this condition include specifically 3 integral bat boxes, 6 integral swift boxes, hedgehog gaps in fence and planting native species of local provenance.

The development is in accordance with ALP policy ENV DM1 and ENV DM5, and the NPPF.

TREES

ALP policy ENV DM3 (section 17.3.1) underlines the importance of trees as contributors to the landscape and visual amenity of Arun, to retention of an important wildlife habitat and contributing significantly to the successful integration of new dwellings into the landscape. ALP policy ENV DM4 ensures that development is planned to take a comprehensive view of tree issues at an early stage and that development works do not have a negative impact on existing trees.

There are two TPOs located on the site. TPO/P/2/20 comprises G1 to the western boundary, which includes 2 No. Pedunculate Oak and 2 No. Lime. These trees are referred to as T4, 6, 7, and 8 in the application. TPO/P/2/15 comprises T2 (Poplar) on the southern boundary. This tree is referred to as T3 in the application. Neither TPO is to be affected by this proposal, with the development only including the removal of two small category C trees (T5 and T1). These are not covered by the Order.

The proposal has been reviewed by the Tree Officer, who raises no objection to the works. It is identified that the development will result in the loss of two small trees of low quality, and concealment and containment of preserved trees on the western boundary. This is unfortunate, but will allow for the successful retention of all higher value trees on the site. Were permission being granted, the conditions requested by the Tree Officer would have been applied.

The development is in accordance with ALP policy ENV DM4, and the NPPF.

SUSTAINABLE CONSTRUCTION

ALP policy ECC SP2 requires all new residential and commercial development to demonstrate how it will be energy efficient.

As there are no decentralised, renewable, and low carbon energy supply systems proposed, a condition is necessary to secure compliance with the policy, and has been applied below.

ACCESS MANAGEMENT CONTRIBUTION

Policy ENV DM2 requires that 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. The current rate is £962 per dwelling.

The site lies in Zone B. As 6 residential units are proposed, the payment for the Access Management Contribution attracts the need to pay for each new dwelling. A contribution of £5772 is required.

The application has been accompanied by a S106 Agreement, which has been signed and sealed by the ADC Legal department. As such, this contribution has been secured and confirmed. This S106 Agreement requires that the sum of £5772 is paid on the date of Commencement of Development. This subsequently accords with ALP policy ENV DM2.

PLANNING BALANCE

The site is outside the Built Up Area Boundary. The principle of development requires consideration under 'the presumption in favour of sustainable development', Part 11 of the NPPF. This application is subject to the tilted balance under Part 11(d)(ii), where the benefits of approving permission must outweigh the harm. The Council cannot demonstrate a Five-Year Housing Land Supply and weight is afforded to the fact that the development would make a contribution to the identified housing need. The development would provide six residential units, which would be of minor benefit. The proposal would make efficient use of some previously developed land. Other benefits include new homes, jobs during construction, and its future occupiers' likely support for local shops and services.

These benefits are limited and the adverse impacts of approving the development would significantly and demonstrably outweigh the benefits of the scheme.

Insufficient evidence has been provided within the application to conclude that there is a suitable drainage method for the disposal of surface water from the development. As a result, the proposal has not adequately demonstrated that the development could be implemented without increasing flood risk elsewhere, and therefore fails to comply with ALP policy W DM2 and W DM3, and the NPPF. This constitutes a demonstrable reason for refusal, as the potential impacts to flood risk in the area are currently unknown, and may result in unacceptable harm to life and property both on site and elsewhere, from flooding as a result of inadequate drainage of the site.

As a result of this conflict with the Arun Local Plan and subsequently the NPPF, the application 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 completed S106 Agreement has been received and confirmed by the ADC Legal Department, with the document signed and dated on 28/04/25. This agreement requires the undertaker to pay the sum of £5772 to the Council on the date of Commencement of the Development, for the purposes of financial contributions towards the cost of delivering measures to avoid, or mitigate, the harm caused to Pagham Harbour by the development.

CIL DETAILS

This application is CIL liable, therefore, developer contributions towards infrastructure will be required (dependent on any exemptions or relief that may apply).

RECOMMENDATION

REFUSE

- 1 Insufficient evidence has been provided to demonstrate the proposed surface water drainage scheme for the site is acceptable and would not increase flood risk elsewhere in conflict with Arun Local Plan policy W DM2 and W DM3, and the NPPF.
- 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. 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.