

Recommendation Report for Planning Permission

REF NO: P/68/21/PL

LOCATION: Amusement Arcade
Beach Road
Bognor Regis
PO21 4SX

PROPOSAL: 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.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

The proposal is to provide residential accommodation for the existing amusement arcade manager by using 96m² of the existing footprint of the building to create a single storey 2 bedroom dwelling. The dwelling will have external space comprising bin store, cycle store, raised planters & amenity area all along the eastern side. The new dwelling will measure 62m² therefore resulting in a net loss of 34m² (this loss facilitating the creation of the amenity space on the eastern side). There will be level access throughout.

The section to be converted will have a raised floor level and in order to provide sufficient headroom the existing flat roof will be raised by around 300mm. The raised roof element will be formed by extending the timber clad fascia and forming a slightly pitched flat roof in highly insulated profiled metal sheeting to fall back onto the amusement arcade roof. The roof will incorporate two roof lanterns to allow for natural daylight into the centre of the proposed dwelling. There will be three new windows & a door on the eastern elevation and a further double door on the northern (rear).

The proposal is the same as that approved under application P/93/14/PL.

SITE AREA 0.039 ha.

RESIDENTIAL DEVELOPMENT DENSITY (NET) 27 dwellings per hectare.

TOPOGRAPHY Predominantly flat but the ground slopes down towards East Front Road (3.73 to 3.40 AOD).

TREES None affected by the proposed 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 building located on the corner of East Front Road and Beach Road. There is no parking on the site but the family of the applicant own the private car park a short distance to the north.
CHARACTER OF LOCALITY	The application 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/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 17-08-20
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
P/37/08/	Demolition of existing two bedroom bungalow & erection of two bedroom bungalow and garage. Re-submission of P/146/07	ApproveConditionally 14-05-08

This is a resubmission of application P/93/14/PL which sought permission for "Part change of use of existing amusement arcade to manager's accommodation" and was approved in February 2015.

REPRESENTATIONS

No objection.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

ENVIRONMENT AGENCY - Objection. The submitted FRA does not comply with the requirements for

site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the planning practice guidance and so does not adequately assess the flood risks posed by the development. In particular, the FRA fails to:

- Take the impacts of climate change into account and provide a comparison between finished floor levels and modelled flood levels
- Consider how a range of flooding events (including extreme events) will affect people and property
- Consider the requirement for flood emergency planning including flood warning and evacuation of people for a range of flooding events up to and including the extreme event.

NATURAL ENGLAND - No objection. Subsequent comments received in response to ADC's Appropriate Assessment agreed that there would be no adverse effect on the integrity of the European Site in view of its conservation objectives provided that the financial contribution is secured.

ADC DRAINAGE ENGINEERS - State that due to the scale, location and type of application, have no conditions to request. Any alterations to surface water drainage must be designed and constructed in accordance with Building Regulations.

ADC COASTAL ENGINEER - No objection. While property is not at an immediate risk of coastal erosion as the other sites were, coastal erosion of the barrier beach would lead to an increased flood risk and that the site could be subjected to coastal erosion and/or flooding at some point during the lifetime of the development. Given current planning legislation, are not in a position to object but the vulnerability of the site is unlikely to improve in the short-term with funding and management challenges still prevalent. Raises a slight concern with the Flood Risk Assessment due to it suggesting that the applicant currently lives on the site and so the development would provide betterment of the situation.

COMMENTS ON CONSULTATION RESPONSES:

ADC COASTAL ENGINEER - The applicant confirmed they do not live on site but are temporarily staying with relatives at 3 East Front Road. This is next door but one. As such, there is no current risk of harm to the safety of a residential occupier at the site but the proposal would still improve the safety of the building.

POLICY CONTEXT

Designations applicable to the Site:

Within the Built Up Area Boundary;
CIL Zone 4;
Within Area of Special Character;
Flood Zone 3
2km from Bognor Reef SSSI; and
Pagham Harbour Access Management Zone A.

DEVELOPMENT PLAN POLICIES

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

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)
DSP1	D SP1 Design
ECCSP1	ECC SP1 Adapting to Climate Change

ECCSP2	ECC SP2 Energy and climate change mitigation
EMPDM1	EMP DM1 Employment Land: Development Management
ENVDM1	ENV DM1 Designated Sites of Biodiversity or geographical imp
ENVDM2	ENV DM2 Pagham Harbour
ENVDM5	ENV DM5 Development and biodiversity
HERDM4	HER DM4 Areas of Character
HERSP1	HER SP1 The Historic Environment
HWBSP1	HWB SP1 Health and Wellbeing
QESP1	QE SP1 Quality of the Environment
SDSP1	SD SP1 Sustainable Development
SDSP1A	SD SP1a Strategic Approach
SDSP2	SD SP2 Built-up Area Boundary
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
WDM4	W DM4 Coastal Protection

PLANNING POLICY GUIDANCE:

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

SUPPLEMENTARY POLICY GUIDANCE:

SPD11	Arun Parking Standards 2020
SPD13	Arun District Design Guide (SPD) January 2021
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.

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.

There is no current Pagham Neighbourhood Plan to consider as the emerging Plan was withdrawn in

September 2020.

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 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.

OTHER MATERIAL CONSIDERATIONS

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

CONCLUSIONS

PRINCIPLE

The site lies in the built up area boundary where development is acceptable in principle per policy SD SP2 of the Arun Local Plan (ALP) and provided it is in accordance with other policies of the Local Plan covering such issues as loss of commercial premises, flood risk, character/design, parking, residential amenity, space standards and the natural environment.

Paragraph 121 of the NPPF states that local planning authorities should take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans - in particular using commercial floor space provided this would not undermine key economic sectors or sites or the vitality and viability of town centres. This is not a town centre site and the proposal would not harm the vitality/viability of the Pagham Beach area as a tourist destination.

The site is in the built-up area in a sustainable location with potential for trips to be made on foot, by cycle or by bus. The new dwelling will provide accommodation to the owner of the amusement arcade allowing him to remain in the local area and ensure security to the business.

The proposal is in accordance with ALP policy SD SP2 and with the guidance in the NPPF.

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 application does not respond to this policy and it is clear that the business premises are still required and that it is entirely suitable for the area given it is a tourist destination. However, it is material that the proposal is to accommodate a person on the site who is employed by the business and who is currently only in temporary accommodation. Allowing this application despite the policy conflict will ensure that the

owner (or a future manager) is on hand 24 hours a day to run the business/resolve any emergencies. This is a valid justification in support of the application despite the conflict with policy EMP DM1.

FLOOD RISK

The site lies wholly in Flood Zone 3a. ALP policy W DM2 and national flood risk policy requires that proposals in such areas meet the sequential and exceptions tests, provide sustainability benefits to the wider community, demonstrate that the development will be safe and does not increase flood risk elsewhere.

The national planning practice guidance states that residential development in Flood Zone 3a is acceptable provided that the sequential and exceptions test are met. However, it states that the Sequential and Exception Tests do not need to be applied to minor developments and changes of use so there is no requirement to satisfy this part of policy W DM3.

The applicant provided a Flood Risk Assessment (FRA) which states floor levels for the new dwelling are to be set at around 4.0m AOD which is slightly above current levels and the adjacent bungalow to the east. The FRA states emergency egress can be provided through land owned by the applicant's family members to the north (in flood zone 2). The FRA states that the development will represent an improvement to the flood protection for the site.

In respect of the other parts of the policy, the proposal does not demonstrate sustainability benefits but it is material that this is an existing building and that the accommodation of the owner/manager on the site could reduce the need for journeys to/from the site. The proposal will not increase flood risk elsewhere as there is no new floorspace (indeed there is to be a 34m² reduction).

The Environment Agency considered the application and object on grounds that the Flood Risk Assessment is not policy compliant and does not allow a proper assessment of flood risk posed. The Environment Agency agree with proposed mitigation (floor raising) but state this should be increased by 5% to account for climate change. The proposal is in conflict with ALP policy W DM2 and the national planning guidance on flooding in that the proposal does not demonstrate that the development will be safe for its lifetime.

PAGHAM HARBOUR & BIODIVERSITY:

The site falls within an area that is within 400m of the Pagham Harbour Special Protection Area (SPA) / Site of Special Scientific Interest (SSSI). Therefore, part (a) of Policy ENV DM2 is relevant:

"Within Zone A (<400m) as identified on the Policies Maps, development will only be permitted in exceptional circumstances where the developer is able to demonstrate there will be no detrimental effects on Pagham Harbour, including non-native species and the water environment. Regard shall also be had to tests 1-4 as set out in Policy ENV DM1".

The applicant has not submitted any justification to enable assessment against the two policies however, there are a number of factors which justify a permission at this site:

- The application is a resubmission of a previously approved scheme which was approved using the same policy (it was emerging policy at the time);
- The proposal is for a small dwelling and will be restricted to occupation by the manager/a staff member at the amusement arcade;
- No new buildings are proposed;
- There is a 34m² reduction in the built area of the site;

- The amusement arcade will remain in place and will continue to act as an attraction to potentially divert people away from the sensitive harbour area;
- A financial contribution will be secured in accordance with the Pagham joint scheme of mitigation.

In addition, an appropriate assessment has been carried out in accordance with the Habitat Regulations and this found that the proposal will not have an adverse effect on the integrity of the European site. This view has been accepted by Natural England.

ALP policy ENV DM5 requires that proposals achieve a net gain in biodiversity and protect existing habitats on site. The application is not accompanied by any ecological appraisal but it is noted that there is no existing habitat on the site. In addition, as the application proposes new garden area on the eastern side with new raised beds, the new flowers/shrubs will provide for biodiversity where previously there was none thus demonstrating a biodiversity gain even if only small.

There is no conflict with policy ENV DM5 but as the s106 has not yet been completed, there is conflict with policies ENV DM1 & ENV DM2 as there is no mechanism to secure the Pagham Harbour mitigation measures contribution.

CHARACTER & DESIGN:

The application is for a change of use with new windows and doors however the plans do show the raising of the flat roof to accommodate the required floor level increase. This was not made clear on the application form but is on the submitted plans and stated in the supporting Design & Access Statement. It is recognised the proposal is the same as on P/93/14/PL which was approved despite the elevation changes not being part of the description. These changes will be considered in this determination.

ALP policy D DM1 requires the Council to make the best possible use of land by reflecting or improving on the character of the site/surrounding area. It requires the Council to consider scale, massing, aspect, siting, layout, density, building materials, landscaping and design features. The policy requires the scale of development keep in the general confines of the overall character of a locality.

ALP policy D DM4 sets out criteria for which applications relating to extensions and alterations of existing buildings must be assessed against. They generally seek to minimise the impact of the proposal on the character of the host dwelling, its neighbours and the locality. Policy D SP1 "Design" requires development to make efficient use of land and reflect local character.

ALP Policy HER DM4 requires development to retain buildings and features which make positive contributions to the special character of the area - and also to preserve and, where possible, enhance the special character. The supporting supplementary planning document states that the area is predominantly single storey, that buildings have individual style/design and that the amusement arcade and adjacent cafe form a focal point.

The Arun Design Guide was adopted in January 2021 and is a material consideration in the determination of applications. The Design Guide states that conversions must protect the original character and appearance of buildings through careful use of considerate materials, preservation of distinctive features, sensitive placement of additional floors, and minimal internal and external alterations and extensions.

The impact on the character and appearance of the area is considered to be negligible as the works are largely restricted to internal renovations, the raising of the existing roofline by around 300mm, new fenestration and a reduction in the existing footprint. The slight raising of the roof will not affect the character/appearance of the building and will not result in material harm to the Area of Special Character.

There is some conflict with policy D DM4 in that the roof raising is by definition not subservient but the building will stay as single storey and the alteration will visually integrate with, the existing building. A condition will need be imposed to require matching materials to the elevations.

The Pagham Village Design Statement is 14 years old but remains a material consideration in the determination of applications. The proposal largely complies with the development criteria given for character area 1 (The Beach Estate) with the only exception being that there is no on-site car parking. This is considered elsewhere in this report. Overall, there is no conflict with development plan policies in respect of design and character.

PARKING:

ALP policy T SP1 seeks to ensure development provides safe access on to the highway network; contributes to highway improvements & promotes sustainable transport. Proposals will be supported where they explain how the development has been designed to: (i) accommodate the efficient delivery of goods and supplies; (ii) give priority to pedestrian and cycle movements and have access to high quality public transport facilities; (iii) create safe and secure layouts for traffic, cyclists and pedestrians whilst avoiding street clutter.

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 or access are proposed but the dwelling will be occupied by the manager of the existing amusement arcade who is currently staying temporarily in an adjacent property. The Council's Parking Standards SPD requires the provision of 2 car parking spaces and 1 cycle space.

The proposal does not provides any car parking spaces but does indicate space for cycle storage in the amenity area on the eastern side of the building (though this would still require a condition). It is material that the applicant already travels to/from the site and that his family own a private car park a short distance to the north (where he likely currently parks if he indeed has a car). This is an acceptable alternative arrangement and it is noted that the same argument was accepted on the previous application. Furthermore, the Parking Standards SPD states that a more flexible approach will be taken with schemes that incorporate flats and on sites close to urban centres. This is technically a ground floor flat and is in an urban centre.

The proposal is acceptable in respect of policies relating to highway safety & parking and therefore in accordance with ALP policy T SP1 and the Parking Standards SPD.

RESIDENTIAL AMENITY:

ALP policy D DM1 requires there be minimal impact to users and occupiers of nearby property and land. ALP policy QE SP1 requires that all development contribute positively to the quality of the environment and ensure that development does not have a significantly negative impact upon residential amenity. The Arun Design Guide sets out guidance on interface distances between dwellings and these are: 21m for back to back, 16m for front to front and 14m for front/back to side. There are no requirements for side facing windows.

Aside from the skylights, the proposed windows are all at ground floor level and so are either screened by existing boundary treatment (to the east) or face a blank wall (to the north). Therefore, there will be no adverse harm to the amenities of existing adjacent residents. The reduction in the existing footprint may also have a positive impact on the amenity of the garden associated with the dwelling to the east.

The proposal is therefore in accordance with policies D DM1 & QE SP1 of the Arun Local Plan, the

NPPF and the Arun Design Guide.

SPACE STANDARDS:

As per ALP policy D DM2, it is necessary to assess the proposal against the internal space standards set out in the Governments Technical Housing Standards (Nationally Described Space Standard) to determine if the buildings will be suitable for residential use. The requirement for a single storey, two bedroom, three person dwelling is 61m² whereas the proposed dwelling will have 62m² of space therefore meeting the requirement. The Arun Design Guide requires a private space of at least 3m² of useable space for flats. The proposal more than meets this requirement.

The scheme therefore provides a decent standard of amenity for future occupiers and there is no conflict with any adopted development plan policy.

RENEWABLE ENERGY:

ALP policy ECC SP2 requires that all new residential development including conversions and change of use be energy efficient and incorporate decentralised, renewable and low carbon energy supply systems. The application is silent on this policy requirement therefore a condition will be required to secure the provision of renewable energy measures and this will ensure compliance with the policy.

SUMMARY:

This proposal will not result in any demonstrable harm to the Area of Special Character, will not harm the amenity of existing residents, will not have a materially adverse impact on the safety of the highway and will not result in an adverse impact on local biodiversity. It will also ensure a decent standard of amenity for future occupiers. However, there is conflict with policy on flood risk as the development does not demonstrate that it will be safe for its lifetime and as such, it is not possible to currently approve the application.

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.

RECOMMENDATION

REFUSE

- 1 The proposal is in conflict with Arun Local Plan policy W DM3, the National Planning Policy Framework and associated guidance in that the site lies in Flood Zone 3a and the applicant has not provided a satisfactory Flood Risk Assessment to enable the Authority to assess the flood risks posed by the development.
- 2 In the absence of a signed Section 106 agreement, the application fails to make a financial contribution towards the cost of providing accessible natural open green spaces to mitigate the harm to the Pagham Harbour Special Protection Area and the proposal is therefore not in accordance with Arun Local Plan policies ENV DM1 and ENV DM2.
- 3 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reasons for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.