

Recommendation Report for Planning Permission

REF NO: P/94/15/PL

LOCATION: Land to the east of
29 Harbour Road
Pagham

PROPOSAL: 3 No. detached bungalows with garage, parking & deck (resubmission following P/12/15/PL)

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

Each of the 3 bedroom bungalows will have an external decked area, ground level garden and single garage with additional parking space in front of the garage. Plot 3's garage is integral whilst the garage for plots 1 & 2 is detached and shared between the two. All of the buildings will be raised above ground level by between 0.4 and 0.5m. The bungalows all have 30 degree pitched roofs.

SITE AREA

0.099 hectares.

RESIDENTIAL DEVELOPMENT DENSITY (NET) 30.3 dwellings per hectare.

TOPOGRAPHY

The land is predominantly flat but there is a slight drop in levels between Harbour Road and West Front Road.

TREES

None affected by the proposed development.

BOUNDARY TREATMENT

The boatyard and adjacent car park area is currently bordered by steel mesh fencing.

SITE CHARACTERISTICS

The site is part of an existing gravelled boat yard/compound with adjacent car parking. There are small amounts of vegetation at the fringes.

CHARACTER OF LOCALITY

The area is part of a residential street predominantly comprising of bungalows. The land to the immediate west of the site is used for car parking. There is then a small wooded copse to the north of the site (on the opposite side of Harbour Road). To the east, there is an existing pumping station fronting Harbour Road and behind this to the south, two garages associated with and located to the rear of nos. 6 and 8 West Front Road. The driveway to the double pitched roof garage

that serves these two houses is bordered by wire mesh fencing as per above. However, the rear gardens of these two properties are bordered by a 2m timber close boarded fence. The site lies in an Area of Special Character.

RELEVANT SITE HISTORY

P/78/99/	Demolition of existing redundant timber clubhouse building and erection of a pair of semi-detached bungalows, each with garage and parking.	ApproveConditionally 19-10-1999
P/115/04/	Amendments to bungalows (2 No) & approval of external treatment of garages approved under P/78/99.	ApproveConditionally 05-11-2004
P/75/06/	Erection of five detached single storey bungalows, each with garage and parking	Withdrawn 06-06-2006
P/24/07/	Erection of three detached bungalows each with deck, garage and parking. Re-submission of application P/75/06/)	Withdrawn 10-08-2007
P/12/14/	New perimeter fencing	ApproveConditionally 17-04-2014
P/12/15/PL	Proposed erection of three detached bungalows each with garage, parking & deck.	Withdrawn 03-06-2015

Application P/24/07 (erection of three detached bungalows each with deck, garage and parking (re-submission of application P/75/06/)) was withdrawn in 2007 following concerns by the Environment Agency on grounds of flood risk. Application P/12/15/PL was withdrawn in order to provide further information in respect of ecological impacts.

REPRESENTATIONS

Representations received:

Pagham Parish Council

Pagham Parish Council

Pagham Parish Council

"Object as the site falls within the nature reserve buffer zones which dictates no development unless under special circumstances. It was agreed that Cllr Radmall would draft a full response to be agreed by email"

Further comments as follows:

"Pagham Parish Council has been in receipt of a significant number of objections to this proposal which would have a serious adverse effect on the vital community amenity provided by the Yacht Club. This facility is an essential central feature (in fact the only remaining)

leisure & recreational provider for this community and the loss of the boat park would impact upon the future viability of the club, a severe blow to this community.

We would respectfully draw attention to the policy of the ADC local plan 2015-2031, at 14.1 Health Recreation & Leisure - "promote strong well-integrated, cohesive communities, through promotion of good quality, accessible community facilities".

14.1.1 "Community facilities includes both open spaces and built facilities for recreation, leisure, sport...."

14.1.2 "open space is defined as all open space of public value ... and ancillary facilities"

14.1.4 "In accordance with the Local Plan's vision & objectives, recreation and leisure facilities should be protected and enhanced under Local Plan policy to safeguard their future access & enjoyment"

Policy HW13 SP1

"All development shall ... maximise ... a) Necessary infrastructure to encourage physical exercise & health, including accessible open space, sports & recreation facilities

14.1.7 "NPPF advises that planning should take account of and support local strategies to improve health social & cultural wellbeing & deliver sufficient community and cultural facilities & services to meet local needs ADC strategies & studies should inform this policy & be used to deliver the objectives of these strategies

a) ADC Open Space, Sport & Recreation Study 2009

b) ADC Draft Leisure & Culture Strategy 2013

c) ADC Seafront Strategies"

14.1.10a) Where the Council is satisfied it is not possible to deliver new sites, then s106 contributions should be sought towards qualitative improvement of existing sites or the delivery of appropriate ancillary services

ADC Leisure & Culture Strategy 2013

14.1.12 "improve the quality & accessibility of leisure & cultural facilities so that residents have greater pleasure & benefit from their leisure time".

14.1.19 Where the necessary space is not provided by the developer & there are no alternative schemes within an appropriate distance from the site to which the developer can contribute toward, planning permission shall not be granted.

Policy OSR DM1 "Protection of open space, outdoor sport & recreation facilities"

"Existing open space, outdoor sport & recreation facilities should not be built on

* unless - a robust assessment has already shown it is surplus

* the loss would be replaced by equivalent or better

* the development is for alternative sport and recreation

* the development is for essential infrastructure"

Clearly none of these conditions, which might be deemed vital for consent, are applicable or could be achieved. Our conclusion is therefore that both the NPPF and the ADC Local Plan demonstrate that both governmental framework and robust local policy dictate that this application must fail."

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In addition, 9 letters of objection have been received. Grounds include:

- * Not suitable to build here due to flood risk;
- * Need to retain open spaces to sustain an effective drainage system;
- * Creation of road maintenance problems for existing householders;
- * Proposal will result in more yacht club cars being parked on local roads;
- * Raised floor levels will look ridiculous and be overbearing to neighbours;
- * Damage to Childing Pink present in the car park;
- * Impact on the Pagham Harbour buffer zone;
- * Need to retain the yacht club storage; and
- * Impact on the viability of the yacht club.

Comments on Representations received:

The following two specific comments are made:

- * It is not considered that maintenance of the private road is a material planning consideration; and
- * The site is part of an existing boatyard and is not used for car parking. Therefore, it is not considered that the proposal will result in more yacht club cars parked on local roads.

Issues relating to ecology, Pagham Harbour, flood risk, drainage, character and the loss of part of the recreational boat yard facility are discussed in the conclusions section.

CONSULTATIONS

Southern Water Planning
Engineering Services Manager
Engineers (Fluvial Flooding)
WSCC Strategic Planning
Ecology Advisor
Engineers (Coastal Protection)
Environmental Health
Environment Agency
Engineers (Coastal Protection)
Conservation Officer
Natural England
Head of Planning Policy & Cons

Consultations responses received:

NATURAL ENGLAND - No comments received. However, comments on the previous scheme stated in respect of Pagham Harbour that:

"Natural England advises your authority that the proposal, if undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the interest features for which Pagham Harbour has been classified. Natural England therefore advises that your Authority is not required to undertake an Appropriate Assessment to assess the implications of this proposal on the site's conservation objectives.

In addition, Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the Pagham Harbour SSSI has been notified. We therefore advise your authority that this SSSI does not represent a constraint in determining this application."

ENVIRONMENT AGENCY - No objection. Comments as follows:

"The proposed development will only meet the requirements of the National Planning Policy Framework if the following measure(s) as detailed in the Flood Risk Assessment [02/03/2015] submitted with this application are implemented and secured by way of a planning condition on any planning permission.

Please note that while we believe that the proposed mitigation measures outlined in the submitted FRA adequately reduce the risk of flooding to the development and future occupants there is still a risk of coastal erosion impacting the site. We agree with the response of Arun District Council's Engineering Dept with respect to an increased risk of coastal erosion at this location. However, it is the role of the LPA to comment on the suitability of development in an area at risk from coastal erosion"

SOUTHERN WATER - Objection. Southern Water object to the layout. They state that due to the vibration, noise and potential odour generated by sewage pumping stations, no habitable rooms should be located closer than 15m to the boundary of the pumping station site. Southern Water also request conditions to (a) approve the details of the proposed rainwater harvesting system & (b) to seek details of the proposed foul & surface water sewer schemes, and an informative regarding connections to the foul sewer.

WEST SUSSEX COUNTY COUNCIL HIGHWAY ENGINEERS - No objection. Summary comments as follows:

"The LHA are satisfied that the proposed development accords with paragraph 32 of the National Planning Policy Framework in that safe and suitable access to the site can be achieved and that the proposed development will not have a severe residual impact on the operation of the highway network. If the LPA are minded to grant planning consent the following conditions would be advised.

- * Parking;
- * Maximum Achievable Visibility Splays;
- * Construction plant and materials; and
- * Cycle parking."

CHICHESTER DISTRICT COUNCIL ECOLOGY - No objection. Summary of comments below:

- * Vegetated Shingle and SPA - recommend that Natural England be consulted due to the distance of the site to the Pagham SPA and the vegetated shingle onsite;
- * Bats - recommend a lighting scheme condition;
- * Reptiles - Recommend a condition to enforce the proposed mitigation measures. No works can commence until the reptile translocation has taken place;
- * Nesting Birds - advise that no works to the trees or on-site vegetation should take place during the bird breeding season;
- * Recreational Disturbance - Advise that should an applicant not wish to participate in the agreed SPA scheme of avoidance & mitigation measures then they would have to propose their

own scheme

of in-perpetuity avoidance/mitigation measures, the majority of which should be within the SPA boundary. The detailed scheme would have to be submitted to the planning authority, together with all other information required to undertake an Appropriate Assessment under the Habitats Regulations 2010, and if agreed it would then be secured by s106 agreement.

ADC DRAINAGE ENGINEERS - No objection. Comments as follows:

"Part of the application area is outside of Flood Zone 1. Surface water should be disposed of through soakaways or similar. The 1 in 100 year storm event plus 30% should be dealt with through the surface water system without causing flooding. Percolation rates are likely to be good through the shingle, and groundwater will be influenced by the tides. ENGD2A should be applied but the requirements for groundwater monitoring may be relaxed. It may be useful to have a percolation test undertaken to ensure that any proposed design for soakaways is adequately sized."

ADC COASTAL ENGINEERS - No comments received. However, comments were received to the previous scheme on the previous scheme and these stated that:

"The site is partially within the area shown on the current Environment Agency Flood Map (zones 2 & 3) - the primary flood risk is from the open coast (from breaching/overtopping) rather than 'back door' flooding from within the Harbour. The erosion induced into the local defences by virtue of the growth of the Church Norton spit is very difficult to predict; depending on how the beach evolves and responds, there may be an increased risk of erosion to the general area of West Front Road - this may have a direct or indirect impact on the site of this proposal but again, this is extremely difficult to predict.

The area has a Shoreline Management Plan Policy of 'Hold the Line' and a Strategy Implementation methodology of 'Adaptive Management'. Arun DC is the Risk Management Authority under the terms of the Coast Protection Act 1949, varied by the Flood & Water Management Act 2010 but it should be noted that Arun District Council has no duties (only permissive powers) to defend, and the policies noted above are subject to funding. It should not therefore be assumed that the area will be defended in perpetuity.

The beach that currently provides a level of defence from flooding to the proposed properties is eroding gradually thus the standard of defence is reducing. The Council has made bids within the Environment Agency's Medium Term Plan (the EA's forward planning / funding mechanism) for modest sums of Flood Defence Grant in Aid (FDGiA) to manage the beaches in this area (beach recycling).

Arun has also expended considerable amounts of its own funding together with FDGiA and 3rd party funding for the emergency and planned works and repairs that have been undertaken to date. It should not be assumed that this funding will continue to be made available.

The community preference to 'cut the spit' has its merits; it also has many uncertainties and it is not at all certain that this scheme will be 'given the green light' and even if it is, there is still the issue of funding to be considered. I would suggest that it is prudent, at this stage, to err on the side of caution and not to be loading the area with further development that could have a risk for the residents and a liability to the Council for increased Civil Contingency response."

ADC CONSERVATION OFFICER - No comments received. However, comments on the previous scheme stated that:

"The proposal is located within the Pagham Beach Estate Area of Special Character. The site consists of part of the sailing club boat park. The area of special character description for the estate notes: "The Yacht Club, an established part of the Beach Estate has a distinctive presence in the area." It is considered that this derives from the building as well as the presence of a substantial amount of space used to accommodate the boats when in storage.

Whilst not public open space, like the Dell opposite, it still forms one of the open areas within the estate. It is therefore considered to play an important function in maintaining the spatial distribution of the estate. Its loss would be unfortunate.

The design of the properties is considered not to maintain the character of the area. It is considered that, not only do they all look the same; they reflect a standard bungalow design. Therefore, they do not reflect the established, traditional character of the locality. This is supported by the ASC description which states: "In recent years, many of the new developments have lacked individual style; there has been a use of uniform materials with no care taken with roof tiles or brick colour, as examples. Colour washed render and stained boarding are typical traditional materials. The use of brown or red bricks has been less successful than the use of pale yellow stock bricks in new developments".

In order to mitigate the development against the impact of flooding, the properties are raised a considerable height above the existing ground floor level. As a result the properties would have a significant impact upon the street-scene and the local area, particularly when viewed in comparison with the yacht club buildings and properties to the immediate south and west".

ADC ENVIRONMENTAL HEALTH - Objection. Comments as follows:

"Environmental Health would recommend refusal of this application on noise grounds. The reasons for this are below:

Taking into account the original noise report (Ref: 3279 R1, dated 14/5/15), and the subsequent correspondence from the applicant, consider that there is insufficient information to make an informed comment on the worst case scenario:

- * An assessment has not been carried out using a recognised standard (i.e. BS 4142:2014) to give information on the likelihood of impact on any future residents. Although the Woods Formula does give a numerical answer, this is not an assessment of the likelihood of impact;

- * No comment has been made on the frequency or duration of noise from the pump in the worst case

scenario. It is appreciated that the applicant has tried to obtain this information from Southern Water, however without it, an assessment of likely impact cannot be made;

- * Information has been given on LAeq but none on LMax in the worst case scenario; and

- * No comments have been made on tonality or impulsivity of the noise."

ADC LOCAL PLANS (POLICY) - Full comments available on the website but in summary:

"In summary, further information is required that:

1. Explains why this is the most appropriate solution compared to other alternatives.
2. Confirms that the vegetated shingle has been succeeded and no longer plays a role for the nearby Harbour
3. Shows winter percolation and/or groundwater testing confirms there will be no impact connected with the water environment
4. Provides information of the green infrastructure functions and how the intended enhancements for biodiversity relate to these.

Additionally, as a minimum a commitment to payment of the required amount in line with the agreed approach to strategic access management at Pagham."

Comments on Consultation responses:

It should be noted that the applicant has been given opportunities to resolve the Southern Water and Environmental Health objections but has not been able to provide sufficient information. The applicant has also submitted further information in respect of the Policy comments. This will be analysed in the Conclusions section.

POLICY CONTEXT

Designations applicable to site:

Within the Built Up Area Boundary;
Area of Special Character;
Protected Coastal Area;
Article 4 Direction;
PD Restriction;
Private Street;
No Public Sewer;
Pagham Harbour Access Management Zone A; and
Flood Zones 1, 2 & 3.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:	<u>AREA1</u>	Areas of Special Character
	<u>AREA13</u>	Sites of International Importance for Nature Conservation
	<u>GEN2</u>	Built-up Area Boundary
	<u>GEN7</u>	The Form of New Development
	<u>GEN9</u>	Foul and Surface Water Drainage
	<u>GEN10</u>	Tidal Flooding and Coastal Defence
	<u>GEN12</u>	Parking in New Development
	<u>GEN29</u>	Nature and Conservation Across the District
	<u>GEN32</u>	Noise Pollution
	<u>DEV17</u>	Affordable Housing
Publication Version of the Local Plan (October 2014):		D DM1 Aspects of Form and Design Quality
		D DM3 External Space Standards
		D SP1 Design
		ECC SP2 Energy and climate change mitigation
		ENV DM1 Designated sites of biodiversity or geological importance

ENV DM2 Pagham Harbour
ECC SP1 Adapting to Climate Change
OSR DM1 Open Space, Sport and Recreation
ENV DM3 Non Designated Sites
ENV DM5 Development and Biodiversity
GI SP1 Green Infrastructure and Development
H DM1 Housing Mix
HER DM4 Areas of Special Character
H SP2 Affordable Housing
QE DM1 Noise Pollution
SD SP2 Built-Up Area Boundary
T SP1 Transport and Development
W DM2 Flood Risk
W DM4 Coastal Protection
W DM3 Sustainable Urban Drainage Systems

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
XXX6	Interim Affordable Housing Policy

POLICY COMMENTARY

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

Arun District Council's Development Plans:

Paragraph 215 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight. The weight afforded to the policies with Local Plan policies can be assessed according to their level of consistency of the various policies with the National Planning Policy Framework.

Paragraph 216 of the NPPF confirms that weight can be given to policies in emerging plans from the day of publication. The Council resolved that the policies and maps in the Publication Version of the Local Plan be used in the determination of this planning application. Following 'publication' of the Local Plan a formal public consultation, examination and adoption process takes place.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The statement of representations procedure and statement of fact produced by the Council under regulation 19 explains that the consultation will take place on 30th October 2014 for six weeks.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation(Reg.14).

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

The Pagham Neighbourhood Development Plan has not yet been made.

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 not considered to comply with relevant Development Plan policies in that special circumstances have not been demonstrated in respect of the impact of the development on Pagham Harbour, that the proposal is not considered to make a positive contribution to the special character of the area, that the site is located in an area at risk from coastal erosion, that the proposed private amenity space to one of the dwellings is inadequate and that the amenity of future residential occupants could be adversely affected by the existing adjacent pumping station.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

PROPOSAL, PLANNING HISTORY & PRINCIPLE:

This application seeks planning permission for the development of part of the existing boatyard with three detached bungalows with garages and private gardens. The previous application was withdrawn due to there being insufficient information in respect of ecology issues.

The site is located within the built up area boundary where the principle of new development is considered to be acceptable subject to other policies in the development plan.

Paragraph 49 of the National Planning Policy Framework (NPPF) states with regard to housing

that: "Housing applications should be considered in the context of the presumption in favour of sustainable development". However, it is also necessary to assess the scheme in respect of other parts of the NPPF and the relevant development plan policies. It is also key to consider whether the proposal is appropriate development having regard to its proximity to the Pagham Harbour Special Protection Area (SPA).

IMPACT ON THE PAGHAM HARBOUR SPA:

This site abuts the Pagham Harbour nature reserve which is designated as an SSSI, SPA and Ramsar Site. The Harbour is therefore protected through European Directive 92/43/EEC and nationally under Conservation of Habitats and Species Regulations. These regulations have been incorporated into the emerging Local Plan through policy ENV DM2, although policy AREA13 of the Arun Local Plan 2003 attempts the same thing.

The location of the site, means that it falls within Zone A of policy ENV DM2 (defined as being within 400m of the boundary of the SSSI). In fact the site is 270m from the SSSI. This policy states that:

"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 (emerging Local Plan policy) ENV DM1 (Designated Sites of Biodiversity or Geological Importance)."

The tests are as follows:

- a. There is no alternative solution (which shall be adequately demonstrated by the developer) and
- b. There are reasons of public health or public safety or
- c. There are benefits of primary importance to the environment or
- d. There are imperative reasons of overriding public interest.

The intention of the above policy, along with the Habitats Regulation Assessment (HRA) of the Arun District Local Plan, is to ensure compliance with the legislation mentioned above. Through the HRA process, the majority of elements were screened out due to the content of the Local Plan and its policies. Critically, there should be no deterioration in the condition of the site and its conservation intentions. Therefore to meet the requirements of this policy and that which is cross referenced, a full appropriate assessment is required to be submitted.

For completeness, it should be noted that Adopted Local Plan policy AREA13 states that: "..... Development not directly connected with or necessary to the management of the site which is likely to have an adverse effect on the site, will not be permitted unless: there is no alternative solution, there are reasons of public health or public safety, or there are benefits of primary importance to the environment."

The applicant has provided an additional 4 page document in response to the comments of the Council's Policy team. For ease, these are repeated below:

1. Explains why this is the most appropriate solution compared to other alternatives.
2. Confirms that the vegetated shingle has been succeeded and no longer plays a role for the

nearby Harbour

3. Shows winter percolation and/or groundwater testing confirms there will be no impact connected with the water environment
4. Provides information of the green infrastructure functions and how the intended enhancements for biodiversity relate to these.

The document states its intention to deal with summary points 2 and 4 only. There is no justification put forward in respect of summary point 1 and crucially, no case is made to demonstrate that there are exceptional circumstances concerning the proposed development. Summary point 4 is considered to have been dealt with by the consultation comments of the Council's Drainage Engineer in that "percolation rates are likely to be good through the shingle". Notwithstanding, it is not considered that sufficient information is put forward by the application files or by the additional document and that therefore it is not possible to adequately state that there will be no detrimental effects on Pagham Harbour, including non-native species and the water environment.

Emerging Local Plan policy ENV DM2 also sets out a minimum requirement for new development to provide a financial contribution towards Pagham Harbour strategic access management measures. This would not be acceptable on its own but could form part of a package of mitigation measures. The applicant has indicated an agreement to provide the financial contribution but at the current time, there is no completed & signed legal agreement.

VISUAL AMENITY & CHARACTER:

Local Plan Policy GEN7 (ii) requires that new developments respond positively to the identified characteristics of a particular site to create developments which respect local characteristics. Central Government Advice further indicates that more intensive development is not always appropriate and that design which is inappropriate in its context should not be accepted. Furthermore, new development should be well integrated with and complement the local area in terms of, for example, layout. Section 7 of the NPPF states that good design is a key aspect of sustainable development (paragraph 56), and that developments should establish a strong sense of place and be visually attractive as a result of good architecture (paragraph 58). Paragraph 64 confirms that planning permission should be refused for poor design that fails to improve the character or quality of an area.

In normal terms, this application would be considered to be acceptable having regard to visual amenity & character. This is because the dwellings are all bungalows and thus replicate the existing form of development within the estate. Furthermore, the development follows an existing building line along Harbour Road.

However, it is also necessary to have regard to the fact that the area is defined as an Area of Special Character (ASC). Arun Local Plan policy AREA1 states that within ASC, development should retain features such as open spaces which make positive contributions to the special character of the areas. It also directs that new development should make a positive contribution to the special character of these areas. The Pagham Beach Estate was designated as an ASC in 1995. The Council's ASC Supplementary Planning Document lists the following points relevant to this site:

"There are many areas of open space on the estate, containing a variety of grasses, mature trees

and smaller miniature trees as key features. 'The Dell' This woodland and other open spaces provide an attractive contrast to the built form of the surrounding estate."

and

"In recent years, many of the new developments have lacked individual style; there has been a use of uniform materials with no care taken with roof tiles or brick colour, as examples. Colour washed render and stained boarding are typical traditional materials. The use of brown or red bricks has been less successful than the use of pale yellow stock bricks in new developments.

and

"The Yacht Club, an established part of the Beach Estate has a distinctive presence in the area."

The Council's Conservation Officer raises concern that the proposal will (a) result in the partial loss of an existing open space, (b) introduces dwellings that are not unique enough to contribute to the ASC and (c) has an adverse impact on the streetscene by reason of raised floor levels.

It is considered that the proposed development is contrary to the ASC policy with regard to its poor design and the partial loss of the yacht club open space. However, the submitted streetscene demonstrates that the act of raising the floor levels has only a slight impact on the streetscene and that the bungalows will not be significantly higher than the adjacent pumping station building.

LOSS OF RECREATIONAL FACILITY:

It is noted that some of the objections made including that by Pagham Parish Council relate to the impact of the proposal on the Yacht Club. The concerns are that the proposal will harm the viability of the Yacht Club which is, as indicated by the ASC Statement, an important part of the local community. However, there is no evidence provided to confirm that the proposal will harm the viability of the Yacht Club and crucially no objection has been made by the club. Furthermore, the proposal will only develop around half of the existing boat storage compound - it does not result in the total loss of the facility.

It is also noted that although policy OSR DM1 of the emerging Local Plan requires that schemes which would result in the loss of recreational facilities, fulfil several criteria; this policy has only very limited weight at this time. The equivalent policy in the adopted local plan is only relevant to open spaces defined on the local plan proposals map and the application site is not shown as an existing open space.

It is therefore not considered appropriate to refuse the scheme on the loss of the recreational facility given that there is no evidence provided in respect of viability impact, that only half of the facility will be lost and that there is no corresponding policy in the adopted plan to support emerging plan policy OSR DM1.

RESIDENTIAL AMENITY:

Arun District local Plan Policy GEN7 (iv) also indicates that development will only be permitted if it takes into account impact on adjoining occupiers, land, use or property. One of the 'core planning

principles' of the NPPF is to secure high quality design and a good standard of amenity (paragraph 17). Both the adopted Local Plan Policy GEN7 and the emerging Local Plan policies require that regard be had to the amenity & living conditions of neighbouring properties.

Given that all of the proposed dwellings are single storey bungalows and will have 1.8m high side boundary fencing and garages to screen proposed flank windows, it is not considered that the scheme will result in any overlooking issues within the development. Furthermore, the bungalows to the rear (6-8 West Front Road) are also single storey and are screened by an existing 2m high fence. There is unlikely to be any loss of light impacts on the two existing residential bungalows as the sun will be at its highest when it is in the west.

NOISE POLLUTION:

Local Plan policy GEN32 Noise Pollution states that: "Noise sensitive development will not be permitted if its users would be affected adversely by noise from existing or proposed noise-generating uses."

The site lies adjacent to an existing Southern Water Pumping Station. Southern Water best practice is not to allow any new habitable rooms within 15m of the boundary of a pumping station. The whole of plot 3 and part of plot 2 fall within this 15m buffer distance. Council Environmental Health officers also consider that there is potential for the new dwellings to be adversely affected by noise emanating from the pumping station. Information has been provided by the applicant but none of this has been of a sufficient standard to allow the proper assessment to be made. Without such information, there is no way to rule out the potential for adverse effects to residential amenity and therefore, the application has to be considered contrary to Policy GEN32.

FLOOD RISK & DRAINAGE:

Planning Policies and the National Planning Policy Framework require development not to give rise to an unacceptable risk of flooding detrimental to human health or property. The site predominantly lies in Flood Zone 3. However, a small strip along the road frontage is actually Flood Zone 1. This would in theory mean that there would be safe egress from the site in the event of a flood.

The Environment Agency have not raised any objection subject to a condition on finished floor levels. The applicant has shown the required finished floor levels on the submitted plans. There is therefore no objection on flood risk grounds. In terms of drainage, Council Engineers have not raised any objections.

COASTAL EROSION:

Arun District Local Plan policy GEN10 states that planning permission will only be granted in areas at risk from coastal erosion provided that the development will not itself be at unacceptable risk and does not pose an unacceptable risk to existing development in the area.

The NPPF provides guidance on coastal protection (paragraphs 106-108) and states that inappropriate development should be avoided in vulnerable areas unless certain criteria are met. Emerging Local Plan policy ECC SP1 states that the council will only support development which is located and appropriately designed to adapt to impacts arising from climate change (such as

coastal erosion)

It is clear from the evidence of both the Environment Agency and the Councils Coastal Engineers that with the future of the Pagham Beach Estate currently in doubt due to the action of waves on the beach to the south, that new residential development in this location is unlikely to be sustainable.

IMPACT ON WILDLIFE & PROTECTED SPECIES:

The previous application was withdrawn due to a lack of the necessary information to determine the likely impact on protected species. However, this application has provided the necessary information and as a result, the Council's ecologist has not raised any objections with regard to protected species. Conditions are recommended to translocate the reptile populations, protect breeding birds and to ensure that any new lighting is bat friendly.

HIGHWAYS & PARKING:

West Sussex County Council Highways has not raised any objections to the proposal. Furthermore, the West Sussex Car Parking Demand Calculator advises that 6 allocated and 1 unallocated visitor space should be provided for the three, 3 bedroom bungalows. Given that there are facilities available nearby for the occasional parking of visitors vehicles, it is not considered that there will be any impact on the local highway. A condition could be added to secure cycle storage within each plot.

INTERNAL & EXTERNAL SPACE STANDARDS:

It is necessary to assess the proposal against internal space standards set out in the Governments Technical Housing Standards (Nationally Described Space Standard). The proposal is for 3, three bedroom, 5 person dwellings and the requirement for each is 86m². All three dwellings provide an internal floor area of in excess of 100m² and therefore all comply.

In respect of external standards, it is necessary to have regard to Policy D DM3 of the emerging Local Plan (publication version) which has been approved by the Council for development management purposes. This requires that small detached dwellings (including bungalows) have 85m² worth of external private amenity space and that rear gardens are 10m deep. The depth requirement is required not only to ensure useable space but also to provide a back-to-back interface distance of 20m.

None of the proposed bungalows have a garden depth of 10m but two of them do have an external area that exceeds the requirement. It is considered that in two of the plots the depth requirement can be waived given the amount of external space and the fact that additional development to the rear would be unlikely. However, plot 2 only has around 75m² worth of garden space and this is not considered to meet the standards.

AFFORDABLE HOUSING:

The Councils Interim Affordable Housing Policy 2010 requires that schemes of up to 10 dwellings provide a financial contribution towards off-site affordable housing. The applicant has agreed to this request but at the current time, there is no signed Section 106 Legal Agreement in place.

SUMMARY:

It is not considered that this application is acceptable having regard to its location within 400m of the Pagham Harbour SPA and in an area currently at risk from coastal erosion. Furthermore, the siting of dwellings this close to a pumping station is considered to be unacceptable having regard to the potential for new residential occupiers to complain as to noise & disturbance. The application site also lies within an Area of Special Character and it is not considered that the proposal will enhance the character of this area. Finally, it is not considered that the proposal provides sufficient external amenity space for potential occupiers.

The applicant has indicated an agreement to providing commuted sums towards off-site affordable housing. However, at this time, there is no signed Section 106 and therefore, the application must also be refused due to non-compliance with the Councils affordable housing policy.

It is therefore recommended that the application be refused for the following reasons.

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 proposed site is located within 400m of Pagham Harbour which is designated as a SSSI, SPA and Ramsar Site. The applicant has not sufficiently demonstrated the

exceptional circumstances required in respect of development within this 400m zone including that the development will have no detrimental impacts on Pagham Harbour, including non-native species and the water environment. As a result, the proposal is not in accordance with policy AREA13 of the Arun Local Plan 2003, policies ENV DM1, ENV DM2 & ENV DM3 of the Arun Local Plan 2011-2031 (Publication Version) and paragraph 118 of the National Planning Policy Framework.

- 2 The location of the site is considered to be inappropriate having regard to current risks facing the Pagham Beach Estate from coastal erosion and the proposal if granted could result in harm to the occupiers of the dwellings and also increase the liability of the local authority for civil contingency responses. As such the proposal is considered to be contrary to policy GEN10 of the Arun District Local Plan, policy ECC SP1 of the Arun Local Plan 2011-2031 (Publication Version) and paragraphs 106-108 of the National Planning Policy Framework.
- 3 Insufficient information has been provided in respect of the concerns raised by both Arun District Council Environmental Health Officers and by Southern Water regarding the potential for the proposed dwellings to be adversely affected by noise pollution from the existing adjacent water pumping station and the application is therefore considered to be contrary to policies GEN7 and GEN32 of the Arun Local Plan 2003, policies D DM1 and QE DM1 of the Arun Local Plan 2011-2031 (Publication Version) and paragraphs 17 & 123 of the National Planning Policy Framework.
- 4 The proposed external rear garden to plot 2 is considered to be unsatisfactory in terms of size (area) and depth and would give rise to an unsatisfactory living environment and unacceptably small habitable private amenity spaces for future occupiers in conflict with the good design principles in the National Planning Policy Framework, Policy GEN7 of the Arun District Local Plan and the external space standards set out in Policy D DM3 of the Publication Version of the Arun Local Plan (2011 - 2031) (October 2014).
- 5 The proposed development will result in the partial loss of an existing open space within a designated Area of Special Character and also proposes development that is not considered to make a positive contribution to the special character of the area. It is therefore considered that the proposed development is contrary to policies GEN7 & AREA1 of the Arun District Local Plan and policy HER DM4 of the Arun Local Plan 2011-2031 (Publication Version).
- 6 The proposed development makes no contribution towards affordable housing provision and is thereby contrary to the aims and objectives of policy H SP2 of the Arun Local Plan 2011-2031 (Publication Version) and the Council's Interim Affordable Housing Policy adopted on the 18th August 2010.
- 7 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 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.